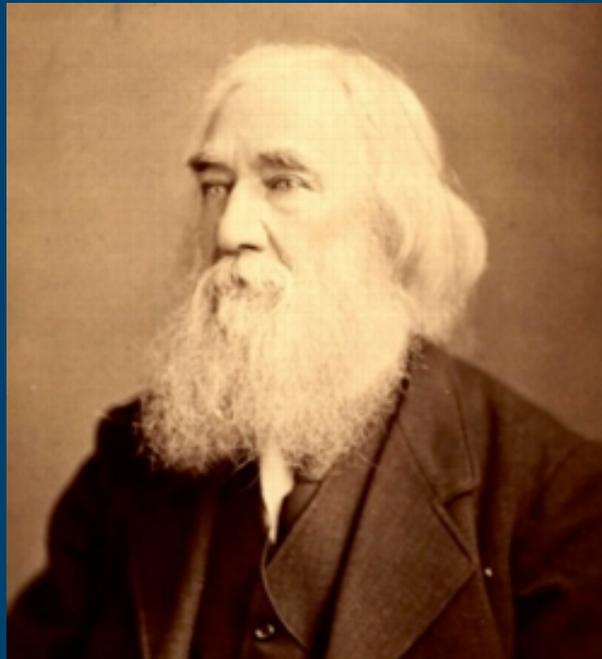


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LYSANDER SPOONER, VOL. 2 (1862-1884)



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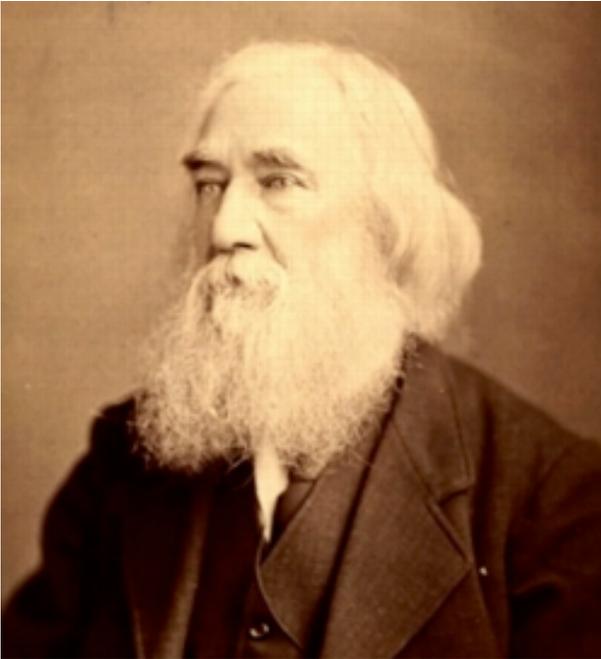
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ABOUT THE AUTHOR



Lysander Spooner (1808-1887)

Lysander Spooner (1808-1887) was a legal theorist, abolitionist, and radical individualist who started his own mail company in order to challenge the monopoly held by the US government. He wrote on the constitutionality of slavery, natural law, trial by jury, intellectual property, paper currency, and banking.

To see other works by this author at the Online Library of Liberty website <<http://oll.libertyfund.org/person/4664>>.

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O U R

MECHANICAL INDUSTRY,

AS AFFECTED BY OUR

PRESENT CURRENCY SYSTEM:

AN ARGUMENT FOR THE AUTHOR'S

"NEW SYSTEM OF PAPER CURRENCY."

BY LYSANDER SPOONER.

BOSTON:
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By **LYSANDER SPOONER**,
in the Clerk's office of the District Court of the United States, for the District
of Massachusetts.

O U R

MECHANICAL INDUSTRY, &C.

CHAPTER I.

Losses in our Mechanical Industry resulting from our Reliance upon Gold and Silver as the Basis of our Currency and Credit.

OUR national industry now averages about four thousand millions of dollars per annum. In the most prosperous years, it probably amounts to five thousand millions. In the least prosperous years, it probably falls down to two or three thousand millions.

Thus it is proved that our industry is *capable* of producing five thousand millions in a year. And if it produce that amount in one year, it ought to be made to produce it in every year. But there is a falling off, in some years, of two or three thousand millions. The average falling off is doubtless one thousand millions per annum, or one fifth of what our industry proves itself capable of.

Here, then, is a loss, in some years, of about one half, and an average loss of one fifth, of what our industry is capable of.

Great as it is, this loss of one fifth of our industry could be born with comparative ease, if it came uniformly in each year, and fell equally upon all in proportion to their property. But it

comes at intervals, and falls unequally. And it falls most heavily upon those least able to bear it. In the first place, it falls, in a greatly disproportionate degree, upon those who labor for daily or monthly wages; depriving them of a large part of their usual means of subsistence, compelling them to consume their accumulations, and often reducing them to absolute suffering. In the second place, it is attended with a fall in prices, which sweeps away, at half its usual market value, the property of thousands, in payment of debts, that had been contracted under high prices; thus bringing upon such persons either utter bankruptcy, or grievous impoverishment. *In this way a large portion of the people are kept in perpetual poverty; whereas if their industry were but uninterrupted, and the prices of property stable, nearly everybody would acquire competence.* Thus the inequality, with which the loss falls upon the people, makes the loss a far greater evil than it otherwise would be.

So large a portion of our industry depends upon credit, that it is probable that the entire difference between our industry in the most prosperous, and in the least prosperous, years — a difference of two or three thousand millions of dollars — is attributable solely to the great extension of credit in the former years, and the suspension, or restriction, of credit in the least prosperous years.

The suspension of credit operates principally to suspend *mechanical* industry. And the great losses, before mentioned, in our aggregate industry, are really little or nothing else than losses from the suspension of our *mechanical* industry.

That the suspension of *mechanical* industry is, in this country, attributable directly and wholly to a suspension of credit, is just as apparent as it is that the water wheel stops because the water is shut off from it.

Under our existing system of currency, these suspensions of credit are inevitable. They arise from various causes, which are inherent in the system, and can be avoided only by a change of system.

One of these causes is the occasional exportation of specie. Our credit being based upon our paper currency, and our paper currency being based upon specie, (that is, being legally redeemable in specie on demand), it follows that whenever any considerable exportation of specie occurs, the paper currency, having in part lost its basis, or means of redemption, must necessarily contract in a corresponding degree.

And here comes in a point to be noticed, viz: that even a small contraction in the currency is sufficient to produce a *general* suspension of credit; and not merely a suspension corresponding in amount to the contraction in the currency. The reason of this is that, as a general rule, any contraction of the currency operates equally upon all debtors in proportion to the amounts of their indebtedness respectively. That is to say, if the amount of currency in circulation be diminished to the extent of ten per cent. of the whole amount, each and every debtor, as a general rule, will find his facilities for meeting his engagements diminished by ten per cent. of what they were before. If the amount of currency in circulation be diminished to the extent of twenty per cent. on the whole amount, each and every debtor, as a general rule, will find his facilities for meeting his engagements diminished by twenty per cent. of what they had been. If, now, a man has been using his credit to its full limit, the diminution of his facilities, to the amount of ten or twenty per cent., is as fatal to his credit as the entire annihilation of those facilities would be. Because all his engagements stand on the same footing, and a failure to meet one is a failure to meet all. He cannot pay ninety per cent. of his debts, and refuse payment of the other ten per cent., and yet retain his credit, and continue his business. When, therefore, the currency contracts by the amount of *ten per cent.*, this contraction, operating, as a general rule, upon all debtors alike, compels every debtor in the whole community to fail, except those whose margins of resources are *ten per cent.* above all their liabilities. When the currency contracts by the amount of *twenty per cent.*, every debtor in the

whole community must fail, except those whose margins of resources are *twenty* per cent. above *all* their liabilities. When the contraction of the currency is still greater than ten or twenty per cent., a corresponding margin of resources, above liabilities, is required to save a man's credit.

It is because few of the men, doing business on credit, have a margin of resources, above their liabilities, corresponding with the contractions which take place in the currency, that these contractions prove fatal to so large numbers of them; and correspondingly fatal to the industry of the country.

The author's system of currency would save all disasters from this cause. Requiring very little specie itself, the exportation of specie would have no influence upon the amount of currency in circulation, or upon the stability of credit.

Under our present system, these exportations of specie, by suspending credit, and thus suspending our mechanical industry, occasion the loss, sometimes, of two or three thousand millions of dollars in our industry, in a single year. They undoubtedly occasion the loss of one thousand millions of dollars per annum, *on an average. This is about ten times the amount of the whole stock of specie, that we usually have in the country. So that, by relying upon specie, as a basis of credit and currency, we lose, in our industry, annually, on an average, ten times more than our whole stock of specie is worth.** And this loss falls, almost wholly, upon our mechanical industry. Is there any wonder that we cannot do our own manufacturing? Or that our manufacturers cannot compete with those of England in the markets of the world? Give us uninterrupted credit, and an abundant currency—a system of credit and currency that cannot be affected by the exportation of specie, and under which manufacturing industry need never be suspended, and our manu-

* If, by relying solely upon specie, as the basis of our currency and credit, we lose annually, on an average, ten times as much, in our industry, as our whole stock of specie is worth, it is obviously quite time that our currency and credit were based upon something else.

facturing capacities would stand on a wholly different basis from what they do now.

A second cause for the suspensions of credit is, that under our present system of currency, the avarice of the money lenders finally destroys the very business that employs their money.* Thus after a general suspension of credit, and of mechanical industry, there being no use for money, the rate of interest falls to a low figure, say three, four, or five per cent, and no calls at that. When this state of things has continued until the money lenders are out of patience at the non-productiveness of their capital, their selfishness manifests itself in apparent liberality; and they are ready to lend money at such low rates as to induce mechanics to undertake business. Industry and commerce revive slowly; but gradually improve, and finally become active and profitable. This increased activity and profit are of course attended with an increased demand for credit and currency. And there being but a limited supply of currency, the rate of interest rises with the demand for it. Until finally, when credit has become most diffused, and industry, production, and commerce are at their height, the competition among borrowers, and the necessity which each one is under to fulfil his engagements, enable the money lenders to raise the rate of interest so high as to swallow up all, and more than all, the profits of business, and compel it to stop.

If the money lenders could all act in concert, so as never to raise the rate of interest beyond what industry would bear, they would doubtless promote their own interests by so doing. But as no such concert among them is practicable, each one acts by himself, and takes advantage of the general competition among

* In speaking of "the avarice of the money lenders," I do not mean that their avarice is any greater than that of other people. They only take advantage of the markets, like every body else. The folly is on our part in forbidding by law all credit and currency except those based on gold and silver; and thus giving to the holders of gold and silver a monopoly, which they use for their own benefit, and for our destruction.

borrowers, and grasps at the most he can get for the time being, because he knows that, if he does not, some body else will. In this way the greed of the money lenders themselves finally destroys the very industry, which their own capital had created.

Under the author's system of currency, this cause of the suspension of credit and industry could never exist; for there would always be such an abundance, and even superabundance, of currency to be loaned, that the rate of interest could never be raised. Currency, in any possible amount that could be used, would always be seeking borrowers at the lowest rate at which the business of banking could be profitably done.

A third cause of our suspensions of credit is, that under our present system of currency, there are several times, perhaps many times, as much *indebtedness* outstanding, as there is of *real credit*; or as there is of real credit needed for doing the same business. In other words, substantially the same debt is due several, perhaps many, times over, by as many different individuals; when, under a proper system of currency, a single one only of these individuals would have needed to contract the debt.

To illustrate this idea, let us suppose that A is a wool grower in Vermont, and that he sells his wool, on credit, to B, who is a manufacturer at Lowell; that B sells his woollen goods, on credit, to C, who is a jobber of woollens in Boston; that C sells a piece of woollen goods, on credit, to D, who is a general retailer in New Hampshire; that D sells woollen for a coat, on credit, to E, who is a tanner in New Hampshire; that E sells leather, on credit, to F, who is a leather dealer in Boston; that F sells leather, on credit, to G, who is a shoe manufacturer in Lynn; that G sells shoes, on credit, to H, who is a shoe dealer in Boston; that H sells shoes, on credit, to I, who is a jobber in Tennessee; that I sells shoes, on credit, to J, who is a retailer in Tennessee; that J sells a pair of shoes, on credit, to K, who is a farmer in Tennessee.

Each of these persons, *except K*, we will suppose, has capital

enough of his own to carry on his business, *if he could only sell for cash, instead of on credit.* But K, having no credit at bank, where he ought to have it, if he is worthy of credit at all, is under the necessity of getting credit of retailers, among the rest, of J, for a pair of shoes, of the value of one dollar. J, being under the necessity of giving credit to K, is himself compelled to get credit with I, the jobber in Tennessee. And I, being under the necessity to give credit to J, is himself compelled to get credit with II, the shoe dealer in Boston. And H, being under the necessity of giving credit to J, is himself compelled to get credit of G, the shoe manufacturer in Lynn. And thus the indebtedness runs back to A, the wool grower, who, from selling his wool on credit, may have been obliged to get credit of some retailer, who again was obliged to get credit with some jobber, who was obliged to get credit with some manufacturer, and so on, until the credit stopped in the hands of some one, who could wait for his money until it should come from K, through all the line of intermediate debtors and creditors.

This dollar, which was at last credited by J to K, in the shape of a pair of shoes, is in reality one of those dollars, which were originally credited by A to B, in the shape of wool; all of which have now become scattered over the country by the same process of repeated credits, by which this dollar came at last into the hands of K.

Here, then, were ten, twelve, or more times as much indebtedness created, as there was of real credit given, or needed. K was the only one of the whole number, who really needed credit. If he could have obtained it at bank, where he ought to have obtained it, he would have paid cash, and all this unnecessary indebtedness would have been avoided. But there was no bank in his neighborhood, where he could get credit, and he was therefore obliged to get credit with the retailer. The retailer was obliged to get credit with the jobber, the jobber with the manufacturer, and so on.

Under the author's system of currency, all this unnecessary

indebtedness would be avoided. Banks would be so numerous, that every body, who needed and deserved credit, could get it at bank; and all traffic between man and man would be cash. And thus all that superfluous indebtedness, (over real credit,) which now furnishes perhaps four fifths, or perhaps nine tenths, of all the materials for a "panic," or "crisis," or general suspension of credit, would be avoided. And such an event could never occur again.

A fourth cause of the suspensions of credit, that now occur, is that the credit itself, that now exists, is, in its very nature, unsound, by reason of the basis of each credit not being definitely known to the creditor himself. That is to say, no specific property is holden for a specific debt, as in the case of a mortgage. Every thing, in this respect, is *loose*. The creditor, in each case, has only a general confidence, based upon circumstances, and not upon any intimate knowledge, that *all* of his debtor's miscellaneous assets will prove adequate to meet *all* of his miscellaneous liabilities.

This looseness is carried to a great extent, and necessarily grows out of our present system of currency. Our banks are so inadequate to supply *directly* all the credit that is needed, that nine tenths, or perhaps nineteen twentieths, of all credit is given by men who are themselves debtors. The same individual gets credit, on the one hand, from every one who will give him credit, and then himself gives credit, on the other hand, to all who will offer him such profits as, in his opinion, will justify the risk — a risk, which, in many cases, is all the more adventurous, because he knows that it must really be run by his creditors, rather than by himself.

In this chaotic mass of indebtedness, no specific property is holden for any specific debt. Every man's solvency depends upon the solvency of other persons, whose real conditions are unknown to him. The banks depend for their solvency upon the solvency of their debtors; and these latter upon the solvency of their debtors; and these latter upon the solvency of still other

debtors; and so on indefinitely. To add to the confusion, every man's debtors are entangled with every other man's debtors, by an almost infinity of cross credits, whose ramifications no one can trace. The debtors of many creditors being scattered all over the country, where the law can give the creditors no practical protection. Thus nearly all credit proceeds avowedly upon the principle of risk — even of great risk — and not of certainty.

Under the author's system of currency, credit would scarcely partake of the character of risk in any degree. In the first place, the banks would be, of themselves, absolutely solvent, and not dependent upon the solvency of their debtors. Next their debtors would be solvent, and known by the banks to be so; because substantially all temporary credit would be obtained at bank, and all trade between man and man be cash. As each man, who should get credit at all, would get it at bank, and generally get all his credit at a single bank, the bank would of course make itself acquainted with his precise condition. And the debt would be virtually a sole mortgage covering his whole property. Thus every debt would be virtually a mortgage upon specific property. With scarcely a qualification, therefore, it might be said that all credit would be perfectly sound. Not even wars, nor political convulsions of any kind, would have any effect upon the stability of such credit. Consequently wars and political convulsions would neither interrupt industry, nor obstruct commerce, nor strike down prices, in any such degree as they do now.

What folly is it to build our industry, as we do now, upon great rickety fabrics of indebtedness — five, ten, or perhaps twenty times larger than they need be, (five, ten, or twenty times as much indebtedness, as of real credit,) every part bound to every other part, in the universal entanglement of indebtedness, and every part trembling and creaking with the weakness of every other part, and the whole standing poised, like an inverted cone, upon a *small movable basis of specie*, which is sure to give way; when prices, credit, and industry must all tumble into

ruins. Yet this we do over and over again. When the disaster comes, we for a while stand aghast at the wreck; then proceed to build up a precisely similar fabric of folly again, knowing that the same catastrophe will overtake *it*, that has overtaken all its predecessors.

A fifth cause of our suspensions of credit is the lack of variety in our manufactures, and the consequent over-production of particular commodities. A very large share of the manufacturing capital, both in this country and in England, is in large masses, and employed by large companies, that have been long established, and are engaged in the production of a limited variety of commodities. The consequences are over-production of those particular commodities, slow sales, low prices, long credits to purchasers, and also credits extra hazardous. All these are bad elements in the money market. *The only remedy for them is to introduce a greater variety in our manufactures. And a more diffused credit is the only means of introducing this greater variety.* Old companies, composed of many individuals, employing large capitals, their machinery all adapted to their peculiar kinds of manufactures, and having established commercial connexions, cannot easily divert their industry into new channels. In fact, it is nearly impossible. As a general rule, therefore, it is only young men, commencing business, and employing only small capitals at first, who can make experiments easily, and without much risk, and thus introduce new varieties of manufacture. Old men, with large capitals, and established business, rarely think of such things. But every young man, on first setting out in manufacturing business, naturally desires to engage in the production of some commodity, that will not expose him to the competition of older establishments. And if he succeed in so doing, it is a most favorable circumstance both for himself, and for those who would otherwise be his competitors. Both are relieved from a competition, that would have been injurious, and perhaps dangerous, to them.

In this way variety in manufactures is greatly increased. And

the greater this variety, the less over-production will there be of any particular commodity, the quicker will be the sales of all commodities, the higher the prices of all, the more cash payments, the shorter the credits, and the safer the credits, and consequently the less liability to any suspension of credit.

This greater variety in manufactures is as desirable for the community at large, as for the manufacturers themselves. A man's *enjoyable* wealth is measured by the number of different things he possesses, rather than by the quantity of any one thing. Thus a man may have a thousand times as much wheat as he can eat, and yet, if he have no other wealth, he will be a poor man. But if he can exchange his surplus wheat for a thousand other things, which he desires, his *enjoyable* wealth will be multiplied a thousand fold. He will then be rich.

For the same reason a nation is rich, or poor, according to the greater or less number of different commodities, which its people possess. Hence the industry of a nation should be devoted, not wholly to the production of any one commodity, nor even to the production of any small number of commodities, but to the production of as great a variety as its soil, climate, its opportunities for foreign commerce, &c., &c., will justify; the end, to be kept constantly in view, being that the nation may have the greatest *variety* of commodities, which its people can either produce directly by their own industry, or procure by an exchange of their own productions for those of other nations.

If the industry of a people be but devoted to the production of a sufficient *variety* of commodities, we need have little doubt, either that there will be a sufficient *quantity* of each, or that the commodities produced will be of the highest *quality*. These matters will take care of themselves; since where there is no over-production of any commodity, the active demand for it, and the high price it will bear, will not only stimulate the industry of those engaged in its production, but will incite them to the acquisition of all the science, skill, machinery, &c., which will enable them to produce the commodity in the greatest abundance, and of the highest excellence.

Hence, wherever we see the greatest diversity of industry, there we see the highest skill and science, and the most perfect machinery, employed in each and every department; and consequently the greatest aggregate production.

Wherever there is little diversity in industry, there is little energy, skill, science, or machinery; and the aggregate amount, neither of labor performed, nor of wealth produced, bears any reasonable comparison with that where industry is diversified.

But so great, and so constantly increasing, is this combined power of science, skill, and machinery, in the production of wealth, that unless new commodities were being constantly invented, production would outrun demand, and industry would stagnate. But as nature has set no limit to human ingenuity, in the invention of new commodities, no limit can be set to the increase of wealth, if only the necessary facilities shall exist for producing these new commodities as fast as they shall be invented.

Diversity in industry, or variety of production, has the same comparative importance, relatively to foreign commerce, that it has relatively to domestic wealth. Thus new and rare commodities are of most value in foreign commerce. That is, they bring the highest prices in proportion to the labor it costs to produce them. When any commodity becomes common and abundant, it bears a low price abroad, as well as at home, in proportion to the labor it costs to produce it. Other things being equal, therefore, the nation that is most ingenious and enterprising in the invention and manufacture of new commodities, and has the credit and currency necessary for producing them in abundance, and exporting them while they are fresh and new, will have immense advantages, in foreign commerce, over a people less ingenious and enterprising in this respect, or having less facilities of credit and currency for taking advantage of markets before the commodities shall have become stale.

But it is to be borne in mind that this great diversity in industry and production can be secured only by the *pre-existence* of

such facilities of credit and currency, as will enable individuals to engage in the production of any and every new commodity, as fast as they shall be invented; no matter how trivial the commodities may be, if only they be such as the community desire. But this universal credit, *this indispensable pre-requisite to the greatest diversity in industry*, can exist only under some system of currency, other than that we now have. The capacities of the present system are very limited, and are already monopolized. But the author's system would furnish both credit and currency in any needed abundance.

Those, who oppose the freest credit, and most abundant currency, through fear of competition in their own industry, make a great mistake. Such credit and currency, by diversifying industry and production, tend not only to relieve all branches from competition and over-production, but also to create new and better markets for every commodity than before existed. The greater the diversity of industry, the fewer will be the producers, the more numerous the consumers, and the higher the prices, of each particular commodity. Every man, who commences the manufacture of a new commodity, relieves the producers of some other commodity of a competitor, and as a general rule, becomes a better customer for all other commodities than he otherwise would have been.

But this is not all. If *credit* were stable, and were extended (as under the author's currency system it would be), still further than it is now in our most prosperous years, mechanical industry would be proportionally increased, and our annual production proportionally increased, over those even of what are now our most prosperous years.

There is abundant room for a great increase of mechanical industry, with a view to both foreign commerce and domestic consumption. Among at least one half our population, occupying much more than one half our national territory, the mechanic arts are as yet practised but to a very limited extent. An adequate extension of credit would carry with it a corresponding

increase of mechanical industry throughout the country. We have agricultural and mineral resources to sustain an indefinite increase of mechanical industry. Nothing but credit — that credit which will give to every man the means of applying his labor and ingenuity to the best possible advantage — is needed to give us the benefit of the immeasurable wealth which this increase in mechanical industry is capable of producing. For the want of this credit, a very large proportion of our people are engaged in merely manual labor, unaided by machinery. Such manual labor is, of necessity, heavy, dull, clumsy, stupid, unskilful, unscientific, and comparatively unproductive. And the consequence is, that if we are not, as a nation, poor, compared with other nations, we are at least poor, compared with what we might be.

Why should our mechanical industry be made to depend upon the contingency of the holders of specie being either able, or willing, to furnish the credit and currency which that industry requires? Why should all the mechanical labor of the country — labor capable of producing two, three, or four thousand millions of dollars per annum — be compelled to stand still, and the ten or more millions of people, dependent upon the earnings of this labor, be impoverished, and perhaps ruined, whenever the holders of one hundred millions of specie, consulting solely their own interests, decline to furnish the credit and currency necessary to keep this labor employed? Our mechanical industry has no need whatever to ask one dollar of credit, nor one dollar of currency (except for small change), of the holders of specie. There are, in the country, some seventeen thousand five hundred millions of other wealth than specie; an amount of wealth an hundred and seventy-five times greater than the amount of specie. This other wealth, if permitted to do so, is capable of furnishing, many times over, all the credit, and all the currency, which our mechanical industry can possibly require, or use. It can furnish them too, without interruption, at all times, under all circumstances, in peace and in war, in plenty and in famine, in prosper

ARTICLES OF ASSOCIATION
OF THE
SPOONER COPYRIGHT COMPANY
FOR
MASSACHUSETTS.

ARTICLE I.

THIS Association shall be called the *Spooner Copyright Company for Massachusetts.*

ARTICLE II.

The Trustees of the Capital of this Association shall be Robert E. Apthorp, and Charles Hale Browne, both of Boston, and Jacob B. Harris, of Abington, all in the State of Massachusetts, the survivors and survivor of them, and their successors appointed as hereinafter prescribed.

ARTICLE III.

The Capital of said Company shall consist of all the rights conveyed to said Trustees, by Lysander Spooner, by a trust deed, of this date, of which the following is a copy, to wit:

Trust Deed.

Know all men by these presents, that I, LYSANDER SPOONER, of Boston, in the County of Suffolk, and Commonwealth of Massachusetts, in consideration of one dollar to me paid by

Robert E. Apthorp, of Boston, Esquire, Charles Hale Browne, of Boston, Physician, and Jacob B. Harris, of Abington, Esquire, all in the State of Massachusetts, Trustees of the Capital of the Spooner Copyright Company for Massachusetts, the receipt of which I hereby acknowledge, and in further consideration of the promises made and entered into, by said Trustees, in the Articles of Association of said Spooner Copyright Company for Massachusetts, (which Articles bear even date herewith,) have given, granted, and conveyed, and do hereby give, grant, and convey, to said Apthorp, Browne, and Harris, and to the survivors and survivor of them, and to their successors duly appointed, in their capacity of Trustees as aforesaid, and not otherwise, all my right, title, and interest, for and within said Commonwealth of Massachusetts, (except as is hereinafter excepted,) in and to the "*Articles of Association of a Mortgage Stock Banking Company*," for which a copyright was granted, under that title, to me, by the United States of America, in the year 1860.

I also, for the considerations aforesaid, hereby give, grant, and convey unto said Apthorp, Browne, and Harris, and to the survivors and survivor of them, and their successors in said trust, in their capacity as Trustees of said Spooner Copyright Company for Massachusetts, and not otherwise, all my right, title, and interest, for and within said Commonwealth of Massachusetts, (except as is hereinafter excepted,) in and to eleven other copyrighted papers, which are included in said "*Articles of Association of a Mortgage Stock Banking Company*," but for which separate copyrights were also granted to me by the United States of America, in the year 1860. Said papers are respectively entitled as follows, to wit: 1. Stock Mortgage. 2. Mortgage Stock Currency. 3. Transfer of Productive Stock in Redemption of Circulating Stock. 4. Re-conveyance of Productive Stock from a Secondary to a Primary Stockholder. 5. Primary Stockholder's Certificate of Productive Stock of the following named Mortgage Stock Banking Company. 6. Primary Stock-

holder's Sale of Productive Stock of the following named Mortgage Stock Banking Company. 7. Secondary Stockholder's Certificate of Productive Stock of the following named Mortgage Stock Banking Company. 8. Secondary Stockholder's Sale of Productive Stock of the following named Mortgage Stock Banking Company. 9. Sale, by a Primary Stockholder, of his right to Productive Stock in the hands of a Secondary Stockholder. 10. Trustee's Bond. 11. Trust Deed. And were copyrighted under those titles respectively.

I also, for the considerations aforesaid, hereby give, grant, and convey to said Apthorp, Browne, and Harris, and to the survivors and survivor of them, and to their successors in said trust, in their capacity as Trustees of said Spooner Copyright Company for Massachusetts, and not otherwise, all right, property, interest, and claim, of every name and nature whatsoever, which, as the inventor thereof, I have, or can have, (for and within the State of Massachusetts only,) either in law, equity, or natural right, in and to the banking system, or Currency system, (as an invention,) and every part thereof, which is embodied or described in the said "Articles of Association of a Mortgage Stock Banking Company," and in the other copyrighted papers hereinbefore mentioned, whether such right, property, interest, and claim now are, or ever hereafter may be, secured to me, my heirs, or assigns, by said copyrighted Articles and papers, or by patent, or by statute, or by common, or constitutional, or natural law — subject only to the exceptions and reservations hereinafter made in behalf of banking companies, whose capitals shall consist either of rail-roads and their appurtenances, or of mortgages or liens upon rail-roads and their appurtenances, (situated within the State of Massachusetts and elsewhere,) or of lands or other property situated outside of the State of Massachusetts.

It being my intention hereby to convey, and I do hereby convey, to said Apthorp, Browne, and Harris, and to the survivors and survivor of them, and to their successors in said trust, in their capacity as Trustees as aforesaid, and not otherwise, all my

right, title, and interest, of every name and nature whatsoever, either in law, equity, or natural right, (except as is hereinafter excepted,) in and to said "Articles of Association of a Mortgage Stock Banking Company," and in and to all the other before-mentioned copyrighted papers, and in and to the invention embodied or described in said Articles and papers, so far as, and no farther than, the same may or can be used by Banking Companies, whose banking capital shall consist of lands, or other real property, (except rail-roads and their appurtenances,) or of mortgages or liens upon lands, or other real property, (except rail-roads and their appurtenances,) situate wholly within said Commonwealth of Massachusetts, and not elsewhere.

And I also, for the considerations aforesaid, hereby give, grant, and convey to said Apthorp, Browne, and Harris, and to the survivors and survivor of them, and to their successors in said trust, in their capacity as Trustees of the capital of said Spooner Copyright Company for Massachusetts, and not otherwise, full power and authority to grant to any and all Banking Companies that may hereafter be lawfully licensed by said Spooner Copyright Company for Massachusetts, and organized under said "Articles of Association of a Mortgage Stock Banking Company," or any modification thereof, within said Commonwealth of Massachusetts, and upon capital consisting of lands or other real property, (except rail-roads and their appurtenances,) or of mortgages or liens upon lands, or other real property, (except rail-roads and their appurtenances,) situate exclusively within said State of Massachusetts, the right and liberty to establish and maintain offices at pleasure in any and all other States and places within the United States of America, or any Territories or Districts thereto belonging, or supposed or believed to belong thereto, for the sale, loan, and redemption both of their Productive and Circulating Stock, without any charge, let, or hindrance by or from me, the said Spooner, or my heirs or assigns.

And I hereby expressly reserve to myself, my heirs and assigns, the full and exclusive right to grant to any and all

Banking Companies, that may be organized under said "Articles of Association of a Mortgage Stock Banking Company," or any modification thereof, and whose capitals shall consist wholly of lands, or other property, or of mortgages upon lands, or other property, situate wholly outside of the State of Massachusetts, the right to establish and maintain at pleasure, within the State of Massachusetts, offices for the sale, loan, and redemption both of their Productive and Circulating Stock, without any charge, let, or hindrance by or from said Spooner Copyright Company for Massachusetts, or the Trustees thereof.

And I do also hereby expressly reserve to myself, my heirs, and assigns, the full and exclusive right to the sale and use of said "Articles of Association of a Mortgage Stock Banking Company," or any parts or modification thereof, so far as the same may or can be used by Banking Companies, whose capitals shall consist exclusively of rail-roads and their appurtenances, or of mortgages or liens upon rail-roads and their appurtenances, situate either within the State of Massachusetts, or elsewhere.

The rights hereby conveyed are to constitute, and are hereby conveyed solely that they may constitute, the capital, or capital stock, of said Spooner Copyright Company for Massachusetts, and are to be held, used, employed, managed, and disposed of by the Trustees of said Company in accordance, and only in accordance, with the Articles of Association of said Spooner Copyright Company for Massachusetts; which Articles have been agreed to by said Apthorp, Browne, and Harris, and me, the said Spooner, and bear even date herewith.

To have and to hold to said Apthorp, Browne, and Harris, and to the survivors and survivor of them, and to their successors in said trust, in their capacity as Trustees of said Spooner Copyright Company for Massachusetts, and not otherwise, all the rights hereinbefore described to be conveyed to them, to be held, used, employed, managed, and disposed of, in accordance, and only in accordance, with said Articles of Association of said Spooner Copyright Company for Massachusetts, forever.

And I do hereby covenant and agree to and with said Apthorp, Browne, and Harris, the survivors and survivor of them, and their successors in said trust, in their capacity as Trustees of said Spooner Copyright Company for Massachusetts, and not otherwise, that I am the true, sole, and lawful owner of all the rights hereinbefore mentioned as intended to be hereby conveyed; that they are free of all incumbrances; that I have good right to sell and convey the same as aforesaid; and that I will, and my heirs, executors, and administrators shall, forever warrant and defend the same to the said Apthorp, Browne, and Harris, and to the survivors and survivor of them, and to their successors in said trust, in their capacity as Trustees of said Spooner Copyright Company for Massachusetts, and not otherwise, against the lawful claims and demands of all persons.

In witness whereof, I, the said Lysander Spooner, have set my hand and seal to three copies of this deed, on this twentieth day of March, in the year eighteen hundred and sixty three.

*Signed, sealed, and delivered
in presence of*

BELA MARSH, } LYSANDER SPOONER. [SEAL.]
THOMAS MARSH. }

SUFFOLK, SS. 20 March, 1863.

Then Lysander Spooner personally acknowledged the above instrument to be his free act and deed.

Before me ^ GEO. W. SEARLE, *Justice of the Peace.*

ARTICLE IV.

1. The aforesaid capital shall be held in joint stock by the Trustees of said Spooner Copyright Company for Massachusetts, at the nominal value of one million dollars, and divided into two thousand shares, of the nominal value of five hundred dollars each.

2. Said shares shall be numbered consecutively from one to two thousand inclusive.

3. They are all hereby declared to be the property of said Lysander Spooner, and shall be entered as such upon the books of the Trustees.

ARTICLE V.

Whenever any of the before-named shares of Stock shall be conveyed, the particular numbers borne by the shares conveyed shall be specified, both in the instrument of conveyance, (where that shall be reasonably practicable,) and on the books of the Trustees.

ARTICLE VI.

1. Any person, who shall, at any time, be a holder of fifty shares of the Stock of said Copyright Company, may, for the time being, either be a Director, or appoint one in his stead, at his election. And for every additional fifty shares, so owned by him, he may appoint an additional Director. Or he may, by himself or by proxy, give one vote, as Director, for each and every fifty shares of Stock of which he may, at the time, be the owner. Provided that no person, by purchasing Stock, shall have the right to be, or appoint, a Director for the same, so long as there shall be in office a Director previously appointed for the same Stock.

2. Any two or more persons, holders respectively of less than fifty shares, but holding collectively fifty or more shares, may, at any time, unite to appoint one Director for every fifty shares of their Stock. Provided, however, that no persons, purchasing Stock, shall have the right to appoint a Director on account of such Stock, so long as there shall be in office a Director previously appointed for the same Stock.

3. All appointments of Directors shall be made by certificates addressed to, and deposited with, the Trustees, and stating specifically the shares for which the Directors are appointed respectively. And such appointments shall continue until the first day of Jan-

uary next after they are made, unless they shall be, before that time, rescinded (as they may be), by those making them.

4. The Board of Directors may, by ballot, choose their President, who shall hold his office during the pleasure of the Board. Whenever there shall be no President in office, by election, the largest Stockholder who shall be, in person, a member of the Board, shall be the President.

5. The Directors, by a majority vote of their whole number, may fix their regular times of meeting, and the number that shall constitute a quorum for business.

6. The Directors shall exercise a general supervision, and so far as they may see fit, a general control, over the expenditures and all other business affairs of the Company. They may appoint a Treasurer, Attorney, and other clerks and servants of the Company; and take bonds, running to the Trustees, for the faithful performance of their duties.

7. The Directors shall keep a record of all their proceedings; and shall furnish to the Trustees written copies of all orders, rules, and regulations which may be adopted by the Directors, for the guidance of the Trustees.

8. The Directors shall receive no compensation for the performance of their ordinary duties. But they may vote a reasonable compensation to the President. And for any extraordinary services, performed by individual Directors, reasonable compensation may be paid.

ARTICLE VII.

1. With the consent of the Directors, the Trustees may grant to Banking Companies, whose capitals shall consist wholly of mortgages upon lands situated within the State of Massachusetts, and to none others, the right to use the aforesaid "Articles of Association of a Mortgage Stock Banking Company," and all the other before-mentioned copyrighted papers, (that are included in said Articles of Association,) so far as it may be convenient

and proper for such Banking Companies to use said Articles and other copyrighted papers in carrying on the business of said Companies as bankers, and not otherwise.

2. The license granted to said Banking Companies to use said "Articles of Association of a Mortgage Stock Banking Company," and other copyrighted papers, shall be granted by an instrument in the following form, (names, dates, and numbers being changed to conform to the facts in each case,) to wit:

License to a Mortgage Stock Banking Company.

Be it known that we, A— A—, B— B—, and C— C—, all of ———, in the State of Massachusetts, Trustees of the Spooner Copyright Company for Massachusetts, by virtue of the power and authority in us vested by the Articles of Association of said Spooner Copyright Company for Massachusetts, and having the consent of the Directors of said Company hereto, in consideration of one thousand dollars, to us paid by D— D—, E— E—, and F— F—, all of Princeton, in the County of Worcester, and Commonwealth of Massachusetts, Trustees of the Princeton Banking Company, — a Mortgage Stock Banking Company, located in said town of Princeton, and having its capital of one hundred thousand dollars, made up of mortgages upon lands and buildings in said town of Princeton, and this day organized under the "Articles of Association of a Mortgage Stock Banking Company," for which a copyright was granted, by the United States of America, to Lysander Spooner, in the year 1860, — the receipt of which sum of one thousand dollars is hereby acknowledged, do hereby give, grant, and convey unto said Princeton Banking Company, and to said Trustees of said Princeton Banking Company, and to the survivors and survivor of them, and to their successors in said trust, in their capacity as trustees of said Princeton Banking Company, and not otherwise, the right, privilege, and license to

use one set (a copy of which is hereto annexed) of said "Articles of Association of a Mortgage Stock Banking Company," and of eleven other papers, that were copyrighted by said Spooner, in 1860, and are included in said Articles, and are respectively entitled as follows, to wit: 1. Stock Mortgage. 2. Mortgage Stock Currency. 3. Transfer of Productive Stock in Redemption of Circulating Stock. 4. Re-conveyance of Productive Stock from a Secondary to a Primary Stockholder. 5. Primary Stockholder's Certificate of Productive Stock of the following named Mortgage Stock Banking Company. 6. Primary Stockholder's Sale of Productive Stock of the following named Mortgage Stock Banking Company. 7. Secondary Stockholder's Certificate of Productive Stock of the following named Mortgage Stock Banking Company. 8. Secondary Stockholder's Sale of Productive Stock of the following named Mortgage Stock Banking Company. 9. Sale, by a Primary Stockholder, of his right to Productive Stock in the hands of a Secondary Stockholder. 10. Trustee's Bond. 11. Trust Deed.

Said Princeton Banking Company, and the Trustees thereof, are hereby authorized to use said "Articles of Association of a Mortgage Stock Banking Company," and all the other copyrighted papers before mentioned, so far as the same may or can be legitimately used in doing the banking business of said Princeton Banking Company, and not otherwise; and to continue such use of them during pleasure.

The right, privilege, and license hereby granted, are granted subject to these express conditions, viz: that all copies of said "Articles of Association of a Mortgage Stock Banking Company," and of all the other before mentioned copyrighted papers, which may ever hereafter be printed or used by said Princeton Banking Company, or the Trustees thereof, shall be respectively exact and literal copies of those hereto annexed; and shall have the name of said Princeton Banking Company (and of no other Banking Company) printed in them; and shall also, each and all of them, bear the proper certificate of copyright in these

words and figures, to wit: "Entered according to Act of Congress, in the year 1860, by Lysander Spooner, in the Clerk's Office of the District Court of the United States, for the District of Massachusetts." Said certificate to be printed immediately under, and next to, the titles of the articles and papers copyrighted, in the same manner as in the copies hereto annexed. Subject to these conditions, said Princeton Banking Company, and the Trustees thereof, are to have the right of printing so many copies of each and all the before mentioned papers, as they may find necessary or convenient in carrying on the business of said Company as bankers, under their present name and organization, and not otherwise.

And furthermore, for the consideration aforesaid, we, the aforesaid Trustees of the Spooner Copyright Company for Massachusetts, hereby give, grant, and convey to said Princeton Banking Company, and to the Trustees thereof, in their capacity as such Trustees, and not otherwise, the right, liberty, and privilege to establish at pleasure offices in any and all other towns and places, other than said Princeton, not only in said State of Massachusetts, but in any and all other States of the United States, and in any and all Territories, Districts, or other places, belonging, or supposed to belong, to the United States, for the sale, loan, and redemption both of their Circulating and Productive Stock, free of all charge, let, or hindrance by or from the said Lysander Spooner, or any other persons claiming by, through, or under him.

In Witness Whereof, we, the said A— A—, B— B—, and C— C—, Trustees of said Spooner Copyright Company for Massachusetts, have set our hands and the seal of said Copyright Company to ——— copies of this License, this ——— day of ———, in the year eighteen hundred and ———.



A— A—, } Trustees of the
 B— B—, } Spooner Copyright
 C— C—, } Company
 for Massachusetts.

Signed, sealed and delivered in presence of

3. The signatures of two of the Trustees (and of one, if at the time there shall be but one Trustee), to any license, shall be sufficient in law.

4. To every copy of the License granted as aforesaid shall be attached one complete set of the papers licensed by it to be used, to wit: one copy of the "Articles of Association of a Mortgage Stock Banking Company," and separate copies of each of the other eleven copyrighted papers hereinbefore described, and included in said Articles.

ARTICLE VIII.

1. Whenever the Trustees of said Spooner Copyright Company for Massachusetts, shall grant to any Banking Company the right to use said "Articles of Association of a Mortgage Stock Banking Company," and the other copyrighted papers included therein, they (the said Trustees), shall superintend the printing of said "Articles" and other copyrighted papers, (as well those that shall be printed together, as those that shall be printed separately,) and shall see that they are all correct in form, following strictly the copies of the same which are hereto annexed, (changing only dates, numbers, names of persons and places, &c., to make them correspond with the facts in each case,) and shall see that they all have printed in them the name of the particular Banking Company for whose use they are designed, and of no other; and shall also see that they each and all have the proper certificate of copyright printed on said "Articles" and other copyrighted papers, immediately under, and next to, the titles thereof respectively, in the following words and figures, to wit: "Entered according to Act of Congress, in the year 1860, by Lysander Spooner, in the Clerk's office of the District Court of the United States, for the District of Massachusetts."

2. And said Trustees of said Spooner Copyright Company for Massachusetts shall retain at least five copies (one for each of themselves, one for the Directors of said Copyright Company, and

one for said Lysander Spooner, his heirs, executors, administrators, or assigns, if demanded by him or them), of every set of said "Articles" and other copyrighted papers, the use of which may be granted to any Banking Company, or Banking Companies; said copies to be verified by the certificate and signatures both of said Trustees themselves, and of the Trustees of the Banking Companies to whom the right of using said "Articles," and other copyrighted papers, shall be granted.

3. And the copies so retained by the Trustees and Directors of the Spooner Copyright Company for Massachusetts, (except those retained for said Spooner, his heirs, executors, administrators, and assigns, which shall be delivered to him or them on demand,) shall be forever preserved for the benefit, and as the property, of said Copyright Company; each Trustee retaining the custody of one copy; and all copies in the possession of any one Trustee being transferred to his immediate successor forever, and receipts taken therefor.

ARTICLE IX.

1. Previous to granting to any Banking Company the right to use said "Articles of Association of a Mortgage Stock Banking Company," and other copyrighted papers before mentioned, the Trustees of said Spooner Copyright Company for Massachusetts, and also the Directors of said last named Company, or a committee or agent thereof, (if the Directors shall see fit either to investigate the matter for themselves, or to appoint a committee or agent to act for them,) shall carefully and faithfully examine all the mortgages which shall be proposed as the capital of such Banking Company, and all certificates and other evidences that may be offered to prove the sufficiency of the mortgaged property, the validity of the mortgages themselves, and the freedom of the mortgaged premises from all incumbrances of every name and nature whatsoever, unless it be the liens of Mutual Insurance Companies for assessments on account of insurance of the premises.

2. And the right to use said "Articles of Association of a Mortgage Stock Banking Company," and other copyrighted papers shall not be granted to any Banking Company, unless two at least of the Trustees of the Spooner Copyright Company for Massachusetts (and also the Directors, or a committee or agent thereof, if the Directors, or a committee or agent thereof, shall act on the subject), shall be reasonably satisfied that each and every piece of mortgaged property is worth, at a fair and just valuation, double the amount for which it is mortgaged to the Trustees of the Banking Company, and that it is free of all prior incumbrance of every name and nature whatsoever, (except for insurance as aforesaid,) and that the title of the mortgagor is absolute and perfect.

3. The Trustees of said Spooner Copyright Company for Massachusetts (and also the Directors, or a committee or agent thereof, if they shall see fit to act on the subject), shall require each and every mortgagor to give to the Trustees of the Banking Company a good and ample policy of insurance against fire upon the buildings upon any and all property mortgaged as aforesaid, unless they shall be satisfied that the mortgaged property is worth, independently of the buildings, double the amount of the mortgage.

ARTICLE X.

1. The price or premium demanded or received, by said Spooner Copyright Company for Massachusetts, for the use of said "Articles of Association of a Mortgage Stock Banking Company," and the other copyrighted papers before mentioned, by any one Banking Company, shall not (except as hereinafter provided), exceed one per centum upon the capital of the Banking Company licensed to use said "Articles" and other copyrighted papers. By this is meant, not one per centum per annum, but one per centum outright; the Banking Company being then free to continue the use of said "Articles" and other copyrighted papers during pleasure.

2. In addition to the one per centum before mentioned, and as a preliminary to either granting or refusing to any proposed Banking Company the right to use said "Articles" and other copyrighted papers, said Copyright Company may, by vote of the Directors, demand and receive a sum not exceeding one tenth of one per centum on the capital of such proposed Banking Company, as compensation for the labor of the Trustees, and Directors, and their committee or agent, in examining the mortgages and other papers of such Banking Company.

3. The Copyright Company aforesaid may also, by vote of the Directors, charge an additional sum, not exceeding one tenth of one per centum on the capital of any Banking Company, as a compensation for the labor of the Trustees of the former Company, (and of the Directors, or any committee, or agent thereof, if they shall act on the matter,) in superintending the printing, stereotyping, or engraving of said "Articles" and other copyrighted papers to be used by such Banking Company.

4. If said Copyright Company shall ever themselves (as they are hereby authorized to do), undertake the business of printing, stereotyping, or engraving the "Articles of Association of a Mortgage Stock Banking Company," and other before mentioned copyrighted papers, for the use of the Banking Companies that may be licensed to use said "Articles" and other copyrighted papers, said Copyright Company may demand and receive for such printing, stereotyping, and engraving, and for the paper consumed in so doing, and for any stereotype or engraved plates made by them, and sold to said Banking Companies, any sum not exceeding double the necessary and proper amount actually paid, by said Copyright Company, for the labor employed, and materials consumed, in printing, stereotyping, and engraving said "Articles" and other copyrighted papers, and in making such stereotype and engraved plates; but in ascertaining that amount, no account shall be taken of the rent of buildings owned or leased by said Copyright Company, and occupied in said printing, stereotyping, or engraving; nor of the wear or destruction of

any of said Copyright Company's type, printing presses, or other material or machinery employed in the process of such printing, stereotyping, or engraving; nor of the labor of superintending such processes either by the Trustees, Directors, or agents of said Copyright Company (except as is provided for in the third clause of this Article).

5. Except as is provided for and authorized by the preceding clauses of this Article, said Copyright Company shall not, in any case whatever, neither directly nor indirectly, nor by any evasion, nor on any pretence, whatever, make any charge or demand upon any Banking Company, nor any addition to the before mentioned charges or prices, for the right to use said "Articles of Association of a Mortgage Stock Banking Company," and other copyrighted papers, nor for any printed, stereotyped, or engraved copies of said "Articles," or other copyrighted papers; nor for any stereotyped or engraved plates of said "Articles," or other copyrighted papers; nor shall said Copyright Company ever hereafter attempt, in any mode, or by any means, either directly or indirectly, to increase the receipts or profits of said Copyright Company, (beyond the amounts hereinbefore specified,) neither from the licenses granted to Banking Companies to use said "Articles of Association of a Mortgage Stock Banking Company," and other copyrighted papers; nor by furnishing to Banking Companies printed or engraved copies of said "Articles," or other copyrighted papers, or stereotyped or engraved plates of said "Articles," or other copyrighted papers, unless under the following circumstances and conditions, to wit: During the life-time of said Lysander Spooner, and with his formal and written consent, or after his death, without his consent having ever been given, the prices of all kinds before mentioned may be increased at discretion by written and recorded resolutions or orders that shall have been personally signed both by Directors representing in the aggregate not less than three-fourths of the capital stock of said Copyright Company and also by Stockholders owning in the aggregate not less than three-fourths of all

the capital stock of said Copyright Company. Provided, however, that, after the death of said Spooner, no such increase of prices or income shall be attempted or adopted, in the manner mentioned, by the votes of Directors and Stockholders, unless a similar increase shall have been first agreed upon to be adopted by similar votes of the Directors and Stockholders of a majority of all similar Copyright Companies that may then be in existence in all the States of the United States.

6. All the before mentioned prices may be reduced at discretion, from the highest amounts named, by votes of the Directors, or of the holders of a majority of the stock.

ARTICLE XI.

With the consent of the Directors, said Spooner Copyright Company for Massachusetts may hold so much real and personal estate as may be needful or convenient for the proper uses and business of said Company, and especially for carrying on the business of printing, stereotyping, and engraving the before mentioned "Articles of Association of a Mortgage Stock Banking Company," and other copyrighted papers, for the use of Banking Companies, that may be licensed, by said Copyright Company, to use said "Articles" and other copyrighted papers.

ARTICLE XII.

Neither said Spooner Copyright Company for Massachusetts, nor the Trustees, nor Directors, nor any agent or officer of said Company, shall have power to contract any debt that shall be binding upon the private property of any Stockholder, or compel the sale of his stock. But said Company, through the Trustees, and with the consent of the Directors, may, for legitimate and proper objects, pertaining directly to the proper business of said Company, contract debts that shall pledge, and be binding upon, and operate as a lien upon, all the receipts and revenues of

the Company, and all the real and personal estate of the Company, other than the copyright property which constitutes the capital stock of the Company.

ARTICLE XIII.

Each one of the Trustees of said Spooner Copyright Company for Massachusetts shall receive, in each year, as compensation for his services as Trustee, five per centum of all the net income of the Company for the year, payable semi-annually, or oftener, at the discretion of the Directors.

ARTICLE XIV.

No dividend shall ever be paid to any Stockholder in said Spooner Copyright Company for Massachusetts, except from net income actually accumulated.

ARTICLE XV.

In granting to Banking Companies the right to use the aforementioned "Articles of Association of a Mortgage Stock Banking Company," and the other copyrighted papers before mentioned, no change shall ever be made from the copies of said "Articles" and other papers hereto annexed, (except the changes of names, dates, numbers, &c., to correspond to the facts in each case,) during the life time of said Lysander Spooner, unless with his formal consent given in writing, and particularly specifying the changes to which he consents. Nor shall any such changes be made, either before or after the death of said Spooner, unless in accordance with a written and recorded vote, resolution, or order, signed by a Stockholder or Stockholders personally, (and not by any agent or attorney,) owning, in the aggregate, at least three-fourths of all the capital stock of said Spooner Copyright Company for Massachusetts. Nor shall any such changes be made, after the death of said Spooner, unless the same changes

shall have been first agreed upon, (in the same manner.) to be adopted by a majority of all the similar Copyright Companies that may then be in existence in all the States of the United States.

ARTICLE XVI.

Any Trustee of said Spooner Copyright Company for Massachusetts, may be removed from his office of Trustee, by the vote or votes of any Stockholder or Stockholders owning, at the time, not less than three-fourths of all the stock of the Company. Said vote or votes shall be expressed by two records, one to be kept by the Trustees, the other by the Directors, and both subscribed by the Stockholder or Stockholders personally, (and not by any agent or attorney,) declaring his or their wish or determination that the Trustee be removed. And such records shall, from the moment of their being so subscribed, and the other Trustees or Trustee notified thereof, operate to cancel all his rights and powers as a Trustee, and vacate his place as Trustee, and make it liable to be filled by another. In subscribing such vote, each Stockholder shall affix to his signature the number of shares of which he shall be, at the time, the holder, and also the particular numbers borne by such shares.

ARTICLE XVII.

Whenever a vacancy shall occur in the office of a Trustee, it may be filled by the vote or votes of any Stockholder or Stockholders owning, at the time, not less than three-fourths of all the stock of the Company. Such vote shall be expressed by two records, one to be kept by the Directors, the other by the Trustees, and both subscribed by the Stockholder or Stockholders personally, and not by any agent or attorney, declaring his or their wish and choice that the individual named shall be the Trustee. And such records, on being deposited with the Directors and Trustees respectively, shall entitle the individual so

elected to demand that his appropriate interest, as Trustee, in the capital stock of the Company, be at once conveyed to him by the other Trustees, or Trustee. And upon such interest being conveyed to him, he shall be, to all intents and purposes, a Trustee, equally with the other Trustees, or Trustee. And the instrument conveying to him his interest, as Trustee, in the capital stock of the Company, shall be acknowledged and recorded in accordance with the laws of the United States for the conveyances of copyrights, or any interest therein.

ARTICLE XVIII.

The signatures of any two of the Trustees (or of one, if at the time there shall be but one Trustee) to certificates of the Stock of the Company, shall be sufficient in law.

ARTICLE XIX.

If required by the Directors, the Trustees shall give reasonable bonds for the faithful performance of their duties. Said bonds shall run to the Directors, for and on behalf of the Stockholders collectively and individually.

ARTICLE XX.

The Trustees shall have a seal with which to seal certificates of stock, licenses, and any other papers, to which it may be proper to affix their seal.

ARTICLE XXI.

Transfers of the stock of the Company, not made originally in the books of the Company, shall not be valid, against innocent purchasers for value, until recorded on the books of the Company.

ARTICLE XXII.

The Trustees shall keep books fully showing, at all times, their proceedings, and the affairs of the Company. And these books shall, at all reasonable times, be open to the inspection both of the Directors, and of Stockholders.

ARTICLE XXIII.

Every Stockholder shall be entitled, of right, to one copy of the Articles of Association of the Company.

ARTICLE XXIV.

These Articles of Association of the Spooner Copyright Company for Massachusetts, may be altered by the vote or votes of any Stockholder or Stockholders owning, at the time, not less than four fifths of the stock of the Company. Such vote or votes shall be expressed by two records, one to be kept by the Trustees, the other by the Directors, and both subscribed by the Stockholder or Stockholders personally, (and not by any agent or attorney,) declaring in precise terms the alterations to be made. But no alteration shall ever be made, injuriously affecting the previous rights of any Stockholder relatively to any or all other Stockholders. Nor shall any change ever be made affecting the provisions of Articles X and XV. Nor shall any change ever be made in Article XII, without the vote of every Stockholder expressed in the manner aforesaid.

IN WITNESS WHEREOF, I, the said Lysander Spooner, and we, the said Robert E. Apthorp, Charles Hale Browne, and Jacob B. Harris, Trustees as aforesaid, in token of our acceptance of said trust, and of our promise to fulfil the same faithfully and honestly, have set our hands and seals to six copies of these Articles of Association, consisting of twenty-two printed

pages, and have also set our names upon each leaf of said Articles, this twentieth day of March, in the year eighteen hundred and sixty-three. We have also, on the same day, set our names upon each leaf of six copies of the "Articles of Association of a Mortgage Stock Banking Company," hereinbefore mentioned, one copy of which is hereto annexed, consisting of fifty-nine printed pages.

LYSANDER SPOONER. [SEAL.]

R. E. APTIORP. [SEAL.]

CHS. HALE BROWNE. [SEAL.]

J. B. HARRIS. [SEAL.]

*Signed, sealed, and delivered
in presence of*

SAML. BATCHELLER, JR.,

GEORGE M. WOLLINGER.

MEMORANDUM.

Be it remembered, that six original copies of the Trust Deed, made by Lysander Spooner to Robert E. Apthorp, Charles Hale Browne, and Jacob B. Harris, as Trustees of the capital of the Spooner Copyright Company for Massachusetts, and bearing date the twentieth day of March, 1863, were really delivered, by said Spooner to said Apthorp, Browne, and Harris, (two copies to each,) this 15th day of April, 1863. Said copies of said Deed, besides being all signed by said Spooner in his own hand writing, are all attested by the original signatures of Bela Marsh and Thomas Marsh as witnesses, and of Geo. W. Searle as Justice of the Peace; and are all, therefore, of equal validity in law.

Be it also remembered, that six original copies of the "*Articles of Association of the Spooner Copyright Company for Massachusetts*," bearing date March 20th, 1863, and consisting of twenty-two printed pages, each copy being signed and sealed by said Spooner, Apthorp, Browne, and Harris, and also attested by the signatures of Sam'l Batcheller, Jr. and Geo. M. Wollinger, as witnesses, and still further verified by the signatures of said Spooner, Apthorp, Browne, and Harris, upon each leaf of each copy, were mutually delivered this 15th day of April, 1863 — That is to say, three of said copies were delivered to said Apthorp, Browne, and Harris, (one copy to each,) and three copies to said Spooner. These copies are all of equal validity in law.

Be it also remembered, that one copy of the "*Articles of Association of a Mortgage Stock Banking Company*," which were copyrighted by Lysander Spooner in the year 1860, and

MEMORANDUM.

bear date January 1st, 1860, consisting of fifty-nine printed pages—said one copy being verified by the signatures of said Spooner, Apthorp, Browne, and Harris, on each leaf—was attached to, and delivered with, each of the before mentioned six copies of the “*Articles of Association of the Spooner Copyright Company for Massachusetts.*”

The objects of this Memorandum are, *first*, to fix the true date on which said Trust Deed and Articles of Association of the Spooner Copyright Company for Massachusetts were really delivered and received by the parties to the same, and became of legal effect; and, *secondly*, to make known to all concerned the means that have been adopted for verifying forever hereafter the original instruments, on which the rights of all Stockholders in the Spooner Copyright Company for Massachusetts will depend.

IN WITNESS WHEREOF, we the said Spooner, Apthorp, Browne, and Harris, have set our hands to six copies of this Memorandum—three copies for said Spooner, and one copy each for said Apthorp, Browne, and Harris—this 15th day of April, 1863.

LYSANDER SPOONER,
R. E. APTHORP,
CHS. HALE BROWNE,
J. B. HARRIS.

CONSIDERATIONS

FOR

BANKERS,

AND

HOLDERS OF UNITED STATES BONDS.

BY LYSANDER SPOONER.



BOSTON:

A. WILLIAMS & CO., 100 WASHINGTON STREET.

NEW-YORK: AMERICAN NEWS COMPANY, 121 Nassau Street.

1864.

Entered according to Act of Congress, in the year 1864,
By **LYSANDER SPOONER**
in the Clerk's office of the District Court of the United States, for the District
of Massachusetts.

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CONSIDERATIONS

FOR

BANKERS.

CHAPTER I.

EXPLANATION OF THE AUTHOR'S NEW SYSTEM OF PAPER CURRENCY.

THE principle of the system is, that the currency shall represent an *invested* dollar, instead of a specie dollar.

The currency will, therefore, be redeemable, *in the first instance*, by an invested dollar, unless the bankers *choose* to redeem it with specie.

The capital is made up of a given amount of property deposited with trustees.

This capital is never diminished ; but is liable to pass into the hands of new holders, in redemption of the currency, if the trustees fail to redeem the currency with specie.

The amount of currency is precisely equal to the nominal amount of capital.

When the currency is returned for redemption, (otherwise than in payment of debts due the bank,) and the trustees are not able, or do not choose, to redeem it with specie, they redeem it by a *conditional* transfer of a corresponding portion of the capital. And the conditional holder of the capital thus transferred, holds

it, and draws interest upon it, until the trustees redeem it, by paying him its nominal value in specie.

Under certain exceptional and extraordinary circumstances, this conditional transfer of a portion of the capital, becomes an absolute transfer; and the conditional holder of the capital transferred, becomes an absolute holder of it — that is, an absolute stockholder in the bank.

In such cases, therefore, the *final* redemption of the currency consists in making the holders of the currency *bona fide* stockholders in the bank itself.

To repeat, in part, what has now been said :

The currency, besides being receivable for debts due the bank, is redeemable, *first*, with specie, if the bankers so choose; or, *secondly*, by a conditional transfer of a part of the capital.

The capital, thus conditionally transferred, may be itself redeemed, by the bank, on paying its nominal value in specie, with interest from the time of the transfer.

Or, this conditional transfer, of a portion of the capital, may, under certain circumstances, become an absolute transfer.

A holder of currency, therefore, is sure to get for it, either specie on demand; or specie, with interest, from the time of demand; or an amount of the capital stock of the bank, corresponding to the nominal value of his currency.

In judging of the value of the currency, therefore, he judges of the value of the capital; because, in certain contingencies, he is liable to get nothing but the capital for his currency. But if the capital be worth par of specie, or more than par of specie, he infers that his currency will be redeemed, either in specie on demand, or by a temporary transfer of capital; which capital will afterwards be itself redeemed with specie.

All that is necessary to make a bank, under this system, a sound one, is, that its capital shall consist of productive property — its actual value fully equal to, or a little exceeding, its nominal value — and of a kind not perishable, or likely to depreciate in value.

Mortgages, rail-roads, and public stocks will probably be the best capital; and most likely they are the only capital which it will ever be expedient to use.

If further explanation of the nature of the system be needed, at this point, it can be given — more easily, perhaps, than in any other way — by supposing the capital to consist of *land* — as follows:

Suppose that A is the owner of one hundred, B of two hundred, C of three hundred, and D of four hundred, acres of land; that all these lands are of uniform value, to wit, one hundred dollars per acre; that they will always retain this value; and that they are all under perpetual leases at an annual rent of six dollars per acre.

A, B, C, and D, put all these lands into the hands of trustees, to be held as banking capital; making an aggregate capital of one hundred thousand dollars. Their rights, as lessors, going with the lands into the hands of the trustees — that is, the trustees being authorized to receive the rents, *and apply them to the uses of the bank, if they should be needed.*

A, B, C, and D, then, are the bankers, doing business through the trustees.

Their dividends, as bankers, it is important to be noticed, will consist *both of the rents of the lands*, and the profits of the banking; making dividends of twelve per cent. per annum, if the banking profits should be six per cent.

The banking will be done in this way —

The trustees will make certificates for one, two, three, five, ten dollars, and so on, to the aggregate amount of one hundred thousand dollars; corresponding to the whole value of the lands.

These certificates will be issued for circulation as currency, by discounting notes, &c.

Each certificate will be, in law, a lien upon the lands for one dollar, or for the number of dollars expressed in the certificate.

The conditions of this lien will be these —

1. That these certificates shall be a legal tender in payment of all debts due the bank.

2. That when *one hundred dollars* of these certificates shall be presented for redemption, the trustees, unless they shall redeem them with specie, shall give the holder a *conditional* title to one acre of land. This conditional title will empower the holder to demand of the trustees rent for that acre, at the rate of six dollars per annum, until they redeem the acre itself, by paying him an hundred dollars in specie for it. And no dividends shall be made by the trustees, to the bankers, (A, B, C, and D,) *either from the rents of any of the other lands, or from the profits of banking*, until this conditional title to the one acre, given to the holder of currency, shall have been cancelled, by the payment of the hundred dollars in specie, with interest, or rent, for the time the conditional title shall have been in his hands.

3. That when certificates are presented for redemption, in sums *less* than one hundred dollars, the trustees, unless they redeem them with specie on demand, shall redeem them with specie, (adding interest, except on small sums,) *before making any dividends, either of rents, or banking profits*, to the bankers (A, B, C, and D).

4. Whenever an acre of land shall have been conditionally transferred in redemption of currency, a corresponding amount of currency (one hundred dollars) must be reserved from circulation, until that acre shall have been redeemed by the bank; to the end that there may never be in circulation a larger amount of currency, than there is of land, in the hands of the bankers, with which to redeem it.

5. So long as *any* of the lands shall remain the property of the original bankers, (A, B, C, and D,) — *free of any conditional title, as before mentioned*— the trustees will have the right, as their agents, to cancel all conditional titles, by paying an hundred dollars in specie for each acre, with interest, (or rent,) at the rate of six per cent. per annum, during the time the conditional title shall have been outstanding. *And the trustees must do this, before they make any dividends, either of rents, or banking profits, to the bankers themselves.*

But if, at any time, the banking shall be so badly managed, as that it shall become necessary for the trustees to give conditional titles *to the whole thousand acres*, (constituting the entire capital of the bank), the rights of the original bankers (A, B, C, and D) in the lands, shall then be absolutely forfeited into the hands of those holding the conditional titles; who will then become absolute owners of them (as banking capital, in the hands of the same trustees) — in the same manner as A, B, C, and D had been before; and will go on banking with them in the same way as A, B, C, and D had done, and through the agency of the same trustees.

This currency, it will be seen, must necessarily be forever solvent — supposing, as we have done, that the lands retain their original value. It will be absolutely incapable of insolvency; for there can never be a dollar of currency in circulation, without there being a dollar of land, in the hands of the bankers, (or their trustees,) which *must* be transferred (one acre of land for a hundred dollars of currency) in redemption of it, unless redemption be made in specie. All losses, therefore, fall upon the bankers, (in the loss of their lands,) and not upon the bill holders. If the bankers should fail — that is to say, if they should be compelled to transfer *all* their lands in redemption of their circulation — the result would simply be, that the lands would pass, *unincumbered*, into the hands of a new set of holders — to wit, the conditional holders — who would have received them in redemption of the currency — *and who would proceed to bank upon them*, (reissue the certificates, and redeem them, if necessary, by the transfer of the lands,) *in the same way that their predecessors had done*. And if they too, should lose *all* the lands, by the transfer of them in redemption of the currency, the lands would pass, *unincumbered*, into the hands of still another set of holders, (the second body of conditional holders, who will now become absolute holders,) who would bank upon them, as the others had done before them. And this process would go on indefinitely, as often as one set of bankers should

fail (lose *all* their lands). Whenever one set of bankers should have made such losses as to compel the *conditional* transfer of *all* their lands, the conditional transfers would become absolute transfers, and the lands would pass absolutely into the hands of a new set of holders (the conditional holders); and the bank, *as a corporation*, would be just as solvent as at first. So that, however badly the banking business should be conducted, and however frequently the *bankers* might fail, (if transferring all their capital (lands), in redemption of their circulation, may be called failing,) the bank itself, *as a corporation*, *could not fail*. That is to say, its circulation could never fail of redemption. The lands (the capital) would forever remain intact; forever equivalent to the circulation; and forever subject to a compulsory demand in redemption of the circulation. In this way all losses necessarily fall upon the bankers, (in the loss of their capital, the lands,) and not upon the bill holders, who are sure to get the capital (lands), dollar for dollar, for their currency, if they do not get specie.

From the preceding explanation it will be seen that, *if all lands were of an uniform value, and were to retain that value in perpetuity*, it would be perfectly easy to use them as banking capital, under the author's system, and thus create the most abundant and solvent currency that could be desired.

But all lands are not of a uniform value; and, therefore, they cannot be used, *acre by acre*, as banking capital, under this system. Nevertheless, by means of mortgages, lands may be used as banking capital; since mortgages upon lands can be made to any desirable extent, and all of a uniform value; or at least nearly enough so for all practical purposes. And this value they will retain in perpetuity.

The real estate of this country amounts to some ten thousand millions of dollars. Mortgaged for only half its real value, it would furnish banking capital to the amount of five thousand millions of dollars.

The rail-roads that we now have, and those that we shall have,

taken at only half their value, would furnish several hundred millions more of good banking capital.

There will probably also be two thousand millions, or more, of United States Stocks, which, *if they should stand permanently at par, or thereabouts*, will make good banking capital.

There is, therefore, no more occasion for a scarcity of currency, than for a scarcity of air.

And this currency would all be solvent, stable, and furnished at the lowest rate of interest at which the business of banking could be done.

Under such a system there could never be another *crisis*; the prices of property would be stable; the rate of interest would always be moderate; industry would be uninterrupted, and much more diversified than it ever hitherto has been; and prosperity would necessarily be universal.

No evils could result from the great amount of currency furnished by this system; for no more would remain in circulation than would be wanted for use. By returning it to the bank for redemption, the holder would either get specie for it, or have it redeemed by the conditional transfer to him of a part of the capital, *on which he would draw interest*, until the capital so transferred to him, should either be itself redeemed with specie, or made an absolute property in his hands. Currency, therefore, returned for redemption, and not redeemed with specie, *is really put on interest*, by being redeemed by the conditional transfer of interest-bearing capital. Whenever, therefore, if ever, the prices of property should become so high as not to yield as good an income as money at interest (the interest being paid in specie), the holders of currency would return it to the banks for redemption, beyond the ability of the banks to pay specie. The banks would be compelled to redeem it by the conditional transfer of interest-bearing capital; *and thus take it out of circulation*.

In short, the currency represents a dollar at interest, instead of a dollar in specie; and whenever it will not buy, in the market, property that is worth as much as money at interest,

(the interest payable in specie,) it will be returned to the bank, and put on interest, (by being redeemed in interest-bearing capital,) *and thus taken out of circulation*. No more currency, therefore, would remain in circulation, than would be wanted for use, *the prices of property being measured by the value of an interest-bearing dollar, instead of a specie dollar, if there should be a difference between the two*.

Such is, perhaps, as good a view of the *general principles* of the system, as can be given in the space that can be spared for that purpose. For a more full description, reference must be had to the pamphlet containing the system itself, with the Articles of Association, that will be needed by the banking companies. In the Articles of Association, the system is more fully developed, and the practical details more fully given, than they can be in any general description of the system.*

The recent experience of this country, under a currency redeemable only by being received for taxes, and made convertible at pleasure into interest-bearing bonds (U. S.), is sufficient to demonstrate practically — what is so nearly self-evident in theory as scarcely to need any practical demonstration — that under a system like the author's, where the currency (when not redeemed in specie on demand) is convertible at pleasure into solvent interest-bearing stocks, there could never be a redundant currency in actual circulation, nor any undue inflation in the prices of property. That experience proves that currency issued, and not needed for actual commerce, at legitimate prices, will be converted into the interest-bearing stocks which it represents, and thus taken out of circulation, rather than used to inflate prices beyond their legitimate standard.†

* In the Articles of Association, as published, the capital is supposed to be mortgages. If United States stocks should be used as capital, the Articles of Association would need to be the same as for mortgages, with but very trivial alterations. If rail-roads were to be used as capital, very considerable alterations would need to be made in the Articles of Association.

† The fact, that U. S. currency is now below par of specie, does not affect the principle stated in the text. That currency is worth, as all such currency must

This experience of the United States, with a currency convertible into interest-bearing bonds, ought, therefore, to extinguish forever all the hard money theories as to the indefinite inflation of prices by any possible amount of *solvent* paper currency. It ought also to extinguish forever all pretence that a paper currency should always be redeemable *in specie on demand*; a pretence that is merely a branch of the hard money theory. This experience ought to be taken as proving that other values than those existing in gold and silver coins — values, for example, existing in lands, rail-roads, and public stocks — can be represented by a paper currency, that shall be adequate to all the ordinary necessities of domestic commerce; and consequently that we can have, *at all times*, as much paper currency as our domestic industry and commerce can possibly call for; and that the frequent revulsions we have hitherto had — owing to our dependence upon a currency legally payable in specie on demand, and therefore liable to contraction whenever specie leaves the country — are wholly unnecessary. This experience ought, therefore, to serve as a practical condemnation of all restraints upon the most unlimited paper currency, provided only that such currency be solvent, and actually redeemable, at the pleasure of the holder, in the property which it purports to represent.

Substantially the same things are proved by the experience of England. The immense amount of surplus money in that country is not used to inflate prices at home; but seeks investment abroad. It is sent all over the world, either in loans to

be worth, as much as the stocks into which it is convertible. The depreciation in the U. S. currency is to be accounted for, therefore, not at all on the ground of superabundance for the uses of commerce, but on one or more of the following grounds, to wit: 1. That the public credit is suffering from the apprehension that the U. S. bonds may never be paid; 2, that the loanable capital of the country is either becoming exhausted, or finds more lucrative investments in business than in U. S. stocks; or, 3, that the burdens imposed upon the use of U. S. stocks as banking capital, are so great as to depreciate the value of the bonds.

governments, or as investments in private enterprises, rather than used to inflate prices at home beyond their true standard.

The experiences of the two countries, therefore, demonstrate that there is no such thing possible as an undue inflation of prices, by a *solvent* paper currency — that is, a currency always redeemable in the specific property it purports to represent. And such a currency is that which would be furnished by the author's system; for the property represented by it is always deliverable, dollar for dollar, in redemption of the currency itself.

CHAPTER II.

THE AUTHOR'S SYSTEM CANNOT BE PROHIBITED BY THE STATES.

THE author holds his system by a copyright on the Articles of Association, that will be needed by the banking companies. His system, therefore, stands on the same principle with patents and copyrights. And the use of it can no more be prohibited by the State governments, than can the use of a patented machine, or the publication of a copyrighted book.

The Constitution of the United States expressly gives to Congress "power to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." And the laws passed by Congress, in pursuance of this power, are "the supreme law of the land, * * * any thing in the laws of any *State* to the contrary notwithstanding."

If the State governments could prohibit the use of an invention, or the publication of a book, which the United States patent or copyright laws have secured to an inventor or author, the whole "power of Congress to promote the progress of science and useful arts," by patent and copyright laws, could be defeated by the States.

Some persons may imagine that, whatever may be the right secured to inventors, by patents, the right secured to authors, by copyrights, is only a right to *publish* their ideas; leaving the State governments still free to prohibit the practical use of the ideas themselves. But this is a mistake. Of what avail would be the publication of ideas, if they could not be used? How utterly ridiculous and futile would be the idea of securing to the people a mere knowledge of "science and useful arts," with no

right, on their part, to apply them to the purposes of life. How *could* Congress “promote the progress of science and useful arts,” if the people were forbidden to practise them? The right secured, therefore, is not a mere right of publication, but also a right of use.

The objects of patents and copyrights are identical, viz. : to secure to inventors and authors, *and through them to the people* — against all adverse legislation by the States — *the practical enjoyment and use of the ideas patented and copyrighted.*

Copyrights, it must be observed, are not granted, as some may suppose, for mere words — for the words of all books were the common property of mankind before the books were copyrighted ; and they remain common property afterwards. The copyright, therefore, is for the ideas, and only for the ideas, which the words are used to convey, or describe.

In copyrights, therefore, equally as in patents, the right secured is the right to ideas ; that is, to those ideas that are *original* with the authors of the books copyrighted. And the right thus secured to ideas, is the right, on the part of the author, not only to reduce those ideas to practical use himself, but also to sell them to others for practical use.

If the right, secured to authors by copyrights, were simply a right to *publish* their ideas, but not to use them, nor sell them to others to be used, the most important knowledge, conveyed by books, might remain practically forbidden treasures, if the State governments should choose to forbid their use.

These conclusions are natural and obvious enough ; but as the point is one of great importance, it may be excusable to enforce it still further.

The ground here taken, then, is, that a State government has no more constitutional power to prohibit the *practical use* of any knowledge conveyed by a copyrighted book, than it has to prohibit the publication or sale of the book itself.

The sole object of the copyright laws are to encourage the production of *ideas* for the enjoyment and use of the people ; to

secure to the people the right to enjoy and use those ideas; and to secure to authors compensation for their ideas. All these objects would be defeated, if the *States* could interfere to prevent the use of the ideas thus produced; because if the ideas could not be used, there would be no sale for the books; and consequently authors would get no pay for writing them; and would have no sufficient motive to write or print them.

It is an axiom in law, that where the means are secured, the end is secured; *that the means are secured solely for the sake of the end.* It would be as great an absurdity in law, as in business, to secure the means, and not the end; to plant the seed, and abandon the crop; to incur the expense, and neglect the profits. What an absurdity, for example, would it be for the law to secure a man in the *possession* of his farm, but not in his right to cultivate it, and enjoy the fruits. What an absurdity would it be for the law to secure men in the *possession* of steam engines, but not in the right to use them. But these would be no greater absurdities than it would be for the law to secure to the people a *knowledge* of "science and useful arts," but not the right to use them.

The sole object of the law in securing to all men the *possession* of their property of all kinds, is simply that they *may use it*, and have the benefit of it. And the sole object of the laws, that secure to the people *knowledge*—which is but a species of property, and a most valuable kind of property—is that they may use it, and promote their happiness and welfare by using it.

An illustration of the principle, that where the means are secured, the end is secured, is seen in the constitutional provision that "the right of the people to keep and bear arms shall not be infringed." This provision does not secure to the people a mere naked "right to keep and bear arms"—for that right would be of no practical value to them. But it secures the right also to *use* them in any and every way that is naturally and intrinsically just and lawful; for that is the only *end* the people can have in view in "keeping and bearing arms."

On the same principle, too, if the Constitution had declared that "the right of the people to buy and keep *food* should not be infringed," it would thus have guaranteed to them, not merely "the right to buy and keep food," but also the right to *eat* the food thus bought and kept; because the eating would be the only *end* that could be had in view in buying and keeping food.

Another illustration of the same principle is found in the constitutional provision that "Congress shall have power to coin money, and fix the standard of weights and measures." Have the States any power to forbid the people to buy and sell the money coined by the United States? Or to forbid the people to use the standard weights and measures fixed by the United States? Certainly not. Although the Constitution does not say it in express words, it does say, *by necessary implication*, that the money, coined by the United States, may be freely bought and sold by the people (because that is one of the ends for which the money is coined); and that the standard weights and measures, fixed by the United States, may be freely used by the people (for that is one of the ends for which the standard of weights and measures was fixed); and that the States can neither forbid the use of the weights and measures, nor the buying or selling of the coin.

The sole object of books is to convey knowledge. If the knowledge cannot be *used*, of what use are the books themselves?

If a *State* government can prohibit the use of the knowledge conveyed in a copyrighted book, it might just as well prohibit the *buying* or *reading* of the book. The object of the book would be no more defeated in one case than in the other.

This power of "promoting the progress of science and useful arts," by means of patent and copyright laws, was given to Congress principally, if not solely, because it was feared that the State governments might, in some cases, be unfavorable to that end. But if the States can *now* prohibit the *use* of the knowledge conveyed by books, they have that very power of obstructing

“the progress of science and useful arts,” which the Constitution intended to take from them.

Furthermore, it is the *theory of the courts* that the nation *purchases* the ideas of authors and inventors; *that it purchases them solely for the use of the people*; and that it pays authors and inventors for their ideas, by giving them certain exclusive rights over them for a term of years.* By this theory, the ideas themselves are supposed to become the property of the nation, from the times when the patents or copyrights are granted; or from the times when the ideas are put upon the government records, in the patent office, or elsewhere. Now, suppose the United States government had been authorized, by the Constitution, to purchase the same ideas, *and pay the money for them*, instead of paying for them by giving the authors and inventors certain monopolies in the use of them. Could a State, in that case, have prohibited the practical use of the ideas, which the government had thus bought, and paid the nation's money for, solely for the use of the people? Clearly not. Suppose the United States government had been authorized (by the Constitution) to buy, and pay the money for, Morse's invention of the telegraph, for the use of the people. Could a State have pro-

* I do not say that the theory of the courts, as given in the text, is the true theory. I think it is not. I think the true theory is one much more favorable, not only to authors and inventors, but also to the public. But the theory given in the text is the one that prevails in the courts, not only of this country, but of England, and, so far as I know, of most or all other countries in which patents and copyrights are granted. And whether true or false, the theory is likely to prevail, I apprehend, for a long time to come. But I think the true theory is that authors and inventors have the same natural and Common Law right of property, and consequently the same perpetual right of property, in their ideas, the products of their mental labor, that other men have in material things, the products of their manual labor; and that governments have no more right to forbid the sale or use of one of these two kinds of property, than they have to prohibit the sale or use of the other. Under this latter theory, authors and inventors would be stimulated much more than they are now to the production of valuable ideas; and the public would be enlightened and enriched in a proportionally greater degree.

hibited the use of the invention, which the nation had thus bought for the use of the people, and paid the people's money for? Certainly not.

Suppose the United States government (being authorized by the Constitution), had bought books on agriculture, for the use of the people, and paid the nation's money for them— (instead of paying for them by copyrights, as it does now)—books on the chemical nature and treatment of soils, books on the various plants which the people wish to cultivate, and the various animals which the people wish to rear. Could a State have forbidden the people to read those books? Or to practically apply the knowledge conveyed by them? Clearly not. The idea would be preposterous. The principle that the United States Constitution, in securing to the people those means of agricultural progress, had, by necessary implication, secured to them the right to use those means against all interference by the States, would have been a complete answer to any such pretence on the part of the States.

We might as well say that a State has a right to forbid the people to use the post office, which the United States government has provided for their benefit, as to say that a State has a right to forbid the people to use any "science or useful art," which the United States government has bought for their benefit.

Any other principle than this would authorize the States to prohibit the practical use of all ideas patented and copyrighted by the United States; and thus utterly defeat the power given to Congress "to promote the progress of science and useful arts," by means of patents and copyright laws.

It is to be borne in mind that the people of a single State are not the only ones interested in the practical use of patented and copyrighted ideas within that State.

If, for example, the cotton growing States were to prohibit the use of Whitney's patented cotton gin within those States, the people of all the other States, that manufacture or wear cotton goods, would be made the poorer by the act. If Louisiana were

to prohibit the use of Fulton's patented steamboat within her limits, a great blow would be struck at the commerce and industry of the whole Mississippi valley. If Ohio, Indiana, Illinois, Iowa, and Wisconsin, were to prohibit the use of McCormick's patented reaper within those States, the price of grain would be affected throughout the whole country. If Massachusetts were to prohibit the use of patented sewing machines, the prices of boots, shoes, and all other clothing, manufactured within the State, for the people of other States, would be enhanced. If New York were to prohibit the use of Hoe's patented printing press within that State, all the commercial intelligence that radiates from the city of New York, would be delayed, and made more expensive; and the commerce of the whole country would be injured. For these reasons no State can be permitted to prohibit, within her limits, the use of any of the "sciences and useful arts," which may be patented or copyrighted by the United States.

The same reasons apply to currency. If New York, for example, were to prohibit all but a metallic currency within her limits, the commerce of the whole country, so far as it is carried on within the city or State of New York, would be disturbed, obstructed, and injured. The industry of the whole country would be discouraged to a corresponding degree; and the whole country would be made the poorer. On the other hand, if the best systems of credit and currency, that can be invented, are allowed free course in the city and State of New York, that city and State can do very much, by the use of such credit and currency, to facilitate the commerce, and consequently to develop the industry, of every State in the Union. Even, therefore, if it were admitted that the State of New York might deprive her own citizens of useful inventions in currency and credit, it cannot be permitted to her to dictate in regard to the currency and credit used in the commerce of the whole country within her limits. She is not an independent nation in regard to commerce; and consequently not in regard to credit or currency.

The principle of the United States Constitution, in regard to ideas patented and copyrighted, or in regard to "the progress of science and useful arts," is, that authors, inventors, and people, shall have the free right to experiment with, and practically test, all ideas for themselves, without asking permission of the several State legislatures. It presumes that they (authors, inventors, and people) are competent to determine, after experiment, what inventions are practically valuable to them, and what worthless.

How preposterous would be the principle — as a political or economical one — that *all* the ideas, which authors and inventors may originate, in "science and useful arts," must be submitted to, and approved by, the several State legislatures, (who are utterly incompetent to judge of either their truth or utility,) before the authors and inventors can be permitted to demonstrate their truth or utility to the people, or the people be permitted to adopt them. Such a principle would be manifestly absurd, ridiculous, destructive of men's natural rights, and destructive of all "progress in science and useful arts." It would be a tyranny that no people on earth could endure. On such a principle, not even an almanac could be published, or a new rat trap used, within any State, until the legislature of the State should have solemnly sat upon it, and given it the sanction of their profound wisdom, or profound ignorance. If any thing of this nature were to be tolerated in this country, it would plainly be most proper and expedient that Congress, as the legislature for the whole country, should take the matter in hand, and decide, for the whole country, upon the truth and utility of all new ideas offered for public adoption; instead of referring them to the several State legislatures. But Congress knows that they are utterly incompetent to any such task; and, therefore, they leave the whole matter — as the Constitution intended they should — to be determined by the authors, inventors, and people interested. And if this is the principle of the Constitution in regard to all other ideas in "science and useful arts," it is equally the principle of the Constitution in regard to currency (other than legal

tender) and credit; for the Constitution makes no discrimination between inventions and ideas on these latter subjects, and those in relation to other matters (as we shall more fully see in subsequent chapters). The Constitution knows but one law for all new ideas in "science and useful arts." And that law is that authors and inventors may come freely face to face with the people, and test all ideas to their mutual satisfaction; leaving the people free to adopt or reject at their own discretion.

If there be any one of the "useful arts," to which the foregoing principles *ought* to be applied, banking is preëminently that one. (By banking is here meant the art of representing by paper—for loans and currency—other values than those existing in coin.) Banking is the art of arts. It is the art upon which nearly all other arts depend mainly for their efficiency; as experience has demonstrated continually for the last hundred years. Directly or indirectly it furnishes both the tools and materials for nearly every trade. Directly or indirectly it creates the demand for, and furnishes the supply of, every marketable commodity. For the want of such adequate credit and currency as banking is capable of supplying, all other arts, especially the mechanic arts, are at all times greatly crippled, and at frequent intervals paralyzed; the natural and normal demand for manufactured commodities suspended, and their prices struck down; the rich made poor, and the poor driven into idleness and destitution. The industry of almost any people—even of those among whom the mechanic arts have already made the greatest progress—would probably be doubled in value by such a diversity of production, such an increase of machinery, such uninterrupted activity, and such stability in prices, as an adequate system of banking would introduce. And the wealth thus produced would be far more equally and equitably distributed than wealth is now.

The imperfection or inadequacy of all former systems of banking is a thing on all hands confessed. There is no art, in which there is greater need of invention. Consequently there is none, in which invention is better entitled to all the protection which

the constitutional power of Congress "to promote the progress of science and useful arts" can give.

For the reasons that have now been given, the right to use practically the author's system of banking, is absolutely secured to him and his assigns, by the United States copyright; and, as has already been said, can no more be prohibited by the State governments, than can the use of a patented machine, or the publication of a copyrighted book.

By what has been said, it is not meant that the patent or copyright laws of Congress are designed, or can be used, to shield a person in the commission of any acts that are fraudulent, or intrinsically criminal; but only that they are a protection for the free use of all ideas, that are patented and copyrighted by the United States, *and that are, naturally and intrinsically, innocent and lawful.*

That the author's system of banking is, naturally and intrinsically, innocent and lawful — as clearly so as any other system of banking that was ever invented — no one will dispute. The honest use of the system, therefore, cannot be prohibited by the States. But any frauds or crimes, committed under color of using the system, may be punished like any other frauds or crimes.

The same principles, of course, apply to any and every other system of banking, which is, naturally and intrinsically, innocent and lawful, and which men may invent, and choose to experiment with, and put in practice. Men have the same natural and constitutional rights to invent, experiment with, and get patented or copyrighted, and put in practice, new systems of banking, as they have to invent, experiment with, get patented, and put in operation, new churns and washing machines. And the only restraints, that can constitutionally be imposed upon them, by the State governments, are, that the natural "obligation of their contracts" must be enforced, and they must commit no frauds nor crimes.*

* It will be seen in a subsequent chapter (the 4th) that the Supreme Court of the United States has expressly declared "that the States have no power, by

taxation, or otherwise, to retard, impede, burden, or in any manner control" the use of ideas *patented* by the United States. And the same principle obviously applied to ideas copyrighted; for ideas copyrighted are intrinsically of the same nature with those patented; and are placed by the Constitution upon the same ground. In the case of *Wheaton vs Peters*, the Supreme Court of the United States held in argument (though that was not the point to be decided) that a copyright was of the same nature as a patent. (8 *Peters' Rep.*, pp. 657-8.)

The only difference between patents and copyrights is one of form, and not of substance; and has reference to the mode of securing compensation to the authors of the ideas patented and copyrighted, rather than to the right of the people to use those ideas. In both cases alike, the people have the right to use the ideas, *with the consent of the authors*. And, on the theory, that now prevails with the courts, (but which, as I have before said, I do not admit to be the true theory,) the people have the right, *without the consent of the authors*, to use patented and copyrighted ideas in any and every possible way, except in those particular modes that are reserved or granted, as an "exclusive right" to the authors, to compensate them for the ideas themselves.

The obvious *constitutional* duty of Congress is to secure, for limited times, to both authors and inventors, *all* "the exclusive rights" to their respective ideas, *that can be made practically valuable to them*. And such was the obvious intention of Congress in enacting the existing copyright laws; (although such may not, perhaps, be the legal effect of those laws in all possible cases.)

Thus the *patent* laws secure to the inventor of a machine, and to his assigns, "the exclusive right to make, use, and vend to others to be used," a machine of that kind, or one embodying *any* of the *original* ideas incorporated in it. But the ideas, embodied in the machine, may be written about, and printed, without the consent of the inventor, and used in any possible way, *except in making or using a machine*; which latter is supposed to be the only way in which the ideas can be made practically valuable to him. The copyright laws, on the other hand, secure to an author and his assigns the sole right of making and selling copies of his book, or any part of it that is original with himself. But other persons may use the ideas, without his consent, in any manner they can, *without making or selling a copy of the book, or any part of it*; which latter are supposed to be—and in most cases are—the only rights that can be made practically valuable to the author. In some cases, however, as in the case of dramatic compositions, the copyright laws secure to the authors and their assigns, not only the exclusive right of making copies of the pieces, but also the exclusive right of performing them in public.

As the copyright laws of Congress now stand, and are now interpreted by the courts, the ideas embodied in the author's banking system, could be used, in defiance of his copyright, if it were *practically possible* for such a banking company to have a legal existence, and carry on the business of banking, *without having any Articles of Association similar, in whole or in part, to those he has copyrighted*.

But as neither of those things would be practically possible, and as he and his assigns have the exclusive right secured to them of making copies, either in whole, or in part, of the Articles of Association, his copyright gives him a legal control over the system.

The system is undoubtedly a legitimate subject of patent; for banking is as much an "art" as is the spinning or weaving of wool or cotton. But the copyright accomplishes all that a patent could; and is, in some respects, preferable.

CHAPTER III.

THE AUTHOR'S SYSTEM CANNOT BE TAXED, EITHER BY THE UNITED STATES, OR THE STATES.

NEITHER the United States, nor the States, can *tax* the author's system of banking, *consistently with the theory which the courts hold in regard to patents and copyrights.*

That theory is, that a patent or copyright, guaranteeing to an inventor or author, and his heirs and assigns, the free and exclusive right to use his invention, or publish his book, for a term of years, is the *price* which the United States government, as agent for the whole people, pays an inventor or author for his invention or book, for the benefit of the public.*

The courts hold that the reasons for granting patents and copyrights are these, namely, that an inventor has in his mind an invention, or an author has in his mind a book, which, it is supposed, may be of value to the public; but that neither the inventor nor the author has any sufficient inducement to make his

* I have before said that I do not believe that the theory of the courts is the true one. But it is the one *least favorable* to the rights of authors and inventors; and is likely to prevail, for the present at least, if not forever. I think the true theory is, that authors and inventors have the same natural and common law right of property in their ideas, the products of their labor, that other men have in material things, the products of their labor; and that government is as much bound to protect the former as the latter. If this theory were to prevail, authors and inventors could very well afford to have their property in ideas taxed; because their property would not only be protected by the criminal law, but it would be protected in perpetuity, like other property. But now the government virtually says to authors and inventors, "Sell your ideas to the government for such price as the government chooses to pay, or you shall have no protection at all for your rights in them." Saying this, and having its offer accepted, it clearly cannot, in good faith, tax the *price* which it has promised to pay.

invention or book known, unless he can derive some pecuniary advantage from it. The United States, therefore, says to the *inventor*: If you will secure your invention to the use of the public, by putting upon the government records such a description of it, and of the manner of using it, as that the public will be able, from your description, to make and use your machine, in defiance of you, (after your patent shall have expired,) the government will, as a compensation for your so doing, secure to you, and your heirs and assigns, the free and exclusive use of the invention for a given number of years. When, therefore, the inventor has put upon the government records such a description of his invention, and of the manner of using it, as the government stipulates for, the bargain is complete, and the faith of the government is pledged, that he shall have the free and exclusive use of his invention for the term of years agreed on.

The United States says also to the *author*: If you will secure to the public the right to your book, by depositing a copy with the government, so that it may be republished in defiance of you, (after your copyright term shall have expired,) the government will secure to you, and your heirs and assigns, the free and exclusive right to publish and sell it for a term of years. When, therefore, the author has deposited with the government a copy of his book, in pursuance of this stipulation on the part of the United States, the contract is complete, and the faith of the government is pledged, that he shall have the free and exclusive right to publish his book for the term of years agreed on.

The amount of these transactions — according to the theory of the courts — is, that the government *buys* an author's or inventor's ideas, and contracts to give him, as compensation for them, a certain exclusive use of them for a term of years.

The courts hold that the general government, on behalf of the whole country, makes this contract with authors and inventors; being specially authorized to do so by the Constitution of the United States.

On this theory, the government cannot consistently tax, either

the ideas themselves, or the use of them. It cannot consistently tax the ideas themselves, as property, for they are supposed to be the property of the United States; and for the government to tax them, as property, would be taxing its own property; and would be as absurd as it would be to tax the National Capitol, or any other property of the government. It cannot consistently tax the author or inventor for his exclusive use of the ideas; for that exclusive use is the *price* which the government agrees to pay him for his ideas; and is, therefore, a debt, which it owes him. It, therefore, can no more consistently tax him for receiving this pay for his ideas, than it can tax any body else for receiving his pay for services rendered, or property sold, or money lent, to the government.

This *price*, be it observed, which the United States government agrees to pay, is not paid in full, until the patent or copyright term has expired; because the price itself consists in the exclusive use, *or in the government protection to the exclusive use*, of the invention or book, *for that term*. If, now, the government can tax this price, before it is fully paid, *it really taxes a debt which it owes*. And for the government to tax a debt, which it owes, is really keeping back a part of the debt.

In other words, if, before the inventor or author shall have had the free and exclusive use of his invention or book secured to him for the full term stipulated for, the general government can tax this free and exclusive use, *which, for a valuable consideration paid to the United States, by the author or inventor, has been guaranteed to him*, it can wholly or partially invalidate the contract made with him. Such a tax is virtually withholding, or keeping back, or taking back, a part of the *price*, which the United States, on behalf of the whole country, had agreed to pay him. If the use of the invention or book can be taxed to the amount of one per cent., ten per cent., fifty per cent., or one hundred per cent., of its value, by the very government that promised to secure the use to him, then one per cent., ten per cent., fifty per cent., or one hundred per cent., of the *price*,

agreed to be paid to him, is taken back, or virtually withheld from him, by the very party that promised to pay it to him.

Such a tax, according to the theory of the courts, would be a tax upon a *debt*, which the United States owes the author or inventor. And a right, on the part of the United States, to impose such a tax, would be as absurd, and as inconsistent with the obligation of a debt, as would be the right of any other debtor, to tax his creditor for the debt due by the former to the latter. If all debtors could tax their creditors at pleasure for the debts due by the former to the latter, the payment of debts would be a very easy matter. And if the United States can tax, at pleasure, all the debts they owe, the public debt may *legally*, and consistently with the public faith, be very easily paid.

When the United States government voluntarily becomes a debtor, by purchasing something valuable, and agreeing to pay for it at a future time, it voluntarily puts itself in the position of any and all other debtors. That is, it agrees to pay the amount *in full*; and not merely to pay all except what it may choose to withhold, or take back, under the name of taxation. A promise of this latter kind would amount to no promise at all.

Suppose the United States government (as agent for the whole country) were to purchase, of an individual, supplies for the United States army; and were to give him a contract to pay him in six months. And suppose that, before paying this debt, the government should tax it, to the amount of one hundred per cent., in the hands of this creditor of the United States. How much would this creditor have coming to him when the contract should be due? Or how much would he realize for the supplies he had furnished, and taken the government's contract for? Nothing. Yet a tax of one per cent. would be just as absurd in principle, and just as inconsistent with the obligation of a debt, as would be a tax of one hundred per cent. Such taxation would clearly be withholding a part of the debt, which the government owed him, and had agreed to pay him, for value received. The government might just as well have seized the supplies, without pretending to

make any compensation at all, as to pretend to buy them, promise to pay for them, and then tax that debt or promise before it is fulfilled. It is for this reason, that the general government cannot, without a breach of faith, tax any portion of the debt it is now contracting. Such a tax would really be a mode of withholding payment of money it had agreed to pay. And for the same reason the general government cannot, consistently with the theory of the courts in regard to patents and copyrights, tax them, or the use of them. Such taxation, according to the theory of the courts, would be withholding a part of the *price*, which the general government, on behalf of the whole country, had agreed to pay for books and inventions.

And what the general government cannot, consistently with the public faith, do, in the way of taxing patents and copyrights, the States, counties, cities, and towns cannot consistently do; because any contract, made by the general government, is made for and on behalf of the whole country; and States, counties, cities, and towns are as much bound by it, as is the general government itself.

If States, counties, cities, and towns could tax patents and copyrights, they could wholly or partially, (according to the extent of the tax,) defeat the value of the contracts, which the United States, on behalf of the whole country, makes with authors and inventors.

The subscriber is not aware that inventions and copyrights, *or the use of inventions or copyrights*, have ever been taxed, either in this country, or in any other, until the recent tax upon telegraphic messages. And this tax, according to the theory of the courts, ought clearly to be held illegal, or at least inconsistent with the public faith.

The country has too great an interest in "the progress of science and useful arts," to tolerate Congress, or the State governments, in breaking faith with authors and inventors, by robbing them, either directly or indirectly, of the free and exclusive right to "their writings and discoveries" for the term of years

that was stipulated for, when, relying upon the public faith, they sold their ideas to the government, (as they virtually did when they put their books and inventions beyond their own control, by putting them upon the government records.)*

For the reasons now given, the subscriber assumes that the use of his system of banking will never be taxed, either by the United States, or the States.

This freedom from taxation is perfectly just, for still another reason, namely, that the land, which constitutes the banking capital under the author's system, is liable to be taxed, *as land*, at its true value, equally with all other land. The fact that it is used as banking capital, is no reason for taxing it beyond its true value, when all other land is equally free to be used as banking capital, if the owners shall so choose.

This exemption from taxation is likely to be an important matter for many years, if not forever; and is sufficient, of itself, to challenge the consideration of bankers.

* We shall see, in the next section, that the Supreme Court of the United States have expressly said that *patent rights* cannot be taxed *by the States*. And if the States cannot tax patent rights, they cannot tax copyrights, for both are of the same nature intrinsically, and both are put upon the same basis by the Constitution. The Supreme Court of the United States has also expressed the opinion that they are of the same nature. (*Wheaton et al, vs. Peters et al.* 8 *Peters' Reports*, 657-8.)

CHAPTER IV.

THE STATE GOVERNMENTS CANNOT CONTROL, OR IN ANY MANNER INTERFERE WITH, THE AUTHOR'S SYSTEM.

THE same reasons that have been already given against the right of the State governments to prohibit, or tax, the use of the author's system of banking, are equally weighty against all power, on the part of the States, to assume to control, or in any manner interfere with, the operation of the banks, either by restricting the rates of interest or exchange, or subjecting the banks to the oversight of Commissioners, or requiring them to keep on hand given amounts of specie, or to publish statements, or make returns, of their condition or proceedings.

A State, for example, would have no more power to fix the rates of interest or exchange, taken by these banks, than to fix the price paid for the use of a patented machine, or for the publication of a copyrighted book. Nor would it have any more power to subject the banks to the oversight of Commissioners appointed by the State, than it would to subject the use of all patented machines, and the publication of all copyrighted books, to the supervision of Commissioners appointed by the State. It would have no more right to require the banks to make returns, or publish statements, of their condition and proceedings, than it would to require the same things of all persons using patented machines, or publishing copyrighted books.

If the State governments can, *in any way*, obstruct or embarrass authors and inventors in the use of their copyrights and inventions, they can impair or destroy the value of the copyrights or patents granted by the United States; and so far defeat the Constitution of the United States, and the powers of Congress on this subject.

The Supreme Court of the United States has explicitly in-dorsed these principles, by declaring that the use of "*patent rights*" can neither be *taxed, retarded, impeded, burdened, nor in any manner controlled, by the State governments*. And the same principle obviously applies to *copyrights*, because these are intrinsically of the same nature with patent rights, and because also the rights of authors and inventors are placed upon the same grounds by the Constitution.

This declaration of the Supreme Court was made in the case of *McCulloch vs. Maryland*, 4 *Wheaton's Reports*. It was made incidently, but nevertheless explicitly, and as illustrating a principle which the court declared to be vital to the existence and operation of the general government.

The immediate question, before the court, was, whether the State of Maryland had a right to *tax* the Maryland branch of the United States Bank?

The court first determined that the United States had a constitutional right to create a bank to be employed *as an agent of the United States* in keeping and disbursing the public monies.

The court next declared "that the power to *tax* involves the power to destroy;" and that to allow the States to tax, or exercise any authority whatever over, any of the agencies employed by the United States in executing its constitutional powers, was incompatible with the supremacy of the United States, and was equivalent to subjecting the United States government to absolute destruction, whenever the State governments should please to destroy it.

And in this connexion, the court spoke of the United States mails, of the mint, *of patent rights*, of the papers of the Custom House, and of judicial process of the United States, as illustrations of the various means used by the United States, and which could not be taxed, nor in any manner interfered with, by the States.

Thus the court say,

“If we apply the principle for which the State of Maryland contends [that the States *may* tax the means employed by the general government for executing its powers] to the Constitution generally, we shall find it capable of changing totally the character of that instrument. We shall find it capable of arresting all the measures of the government, and prostrating it at the foot of the States. The American people have declared their Constitution, and the laws made in pursuance thereof to be supreme; but this principle would transfer the supremacy, in fact, to the States.

“If the States may tax one instrument, employed by the government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; *they may tax patent rights*; they may tax the papers of the Custom House; they may tax judicial process; they may tax all the means employed by the government, to an excess which would defeat all the ends of government. *This was not intended by the American people. They did not design to make their government dependent on the States.*” Page 432.

Also the court say,

“The court has bestowed on this subject its most deliberate consideration. *The result is a conviction that the States have no power, by taxation, or otherwise, to retard, impede, burden, or in any manner control, the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the general government.* This is, we think, the unavoidable consequence of that supremacy which the Constitution has established.” Page 436.

This was an *unanimous* opinion of the court—expressly declared by them to be such. And, as we have already seen, they expressly applied the principle to “*patent rights.*” And if the principle is applicable to patent rights, it is equally applicable to copyrights; because they are both of the same nature, and stand on the same grounds in the Constitution.*

We have, then, in effect, an explicit declaration of the Supreme

* In the case of *Wheaton et al, vs. Peters et al*, the Supreme Court of the United States incidentally expressed the opinion that a copyright was of the same nature as a patent right. (*8 Peters' Reports, pp. 657-8.*)

Court of the United States, "*that the States have no power, by taxation, or otherwise, to retard, impede, burden, or in any manner control,*" the use of patents and copyrights, granted by the United States.

If the bankers should commit any frauds, or any acts that were intrinsically criminal, they could be punished, as for any other frauds or crimes; because patents and copyrights do not authorize the commission of crimes. Or if they should not fulfil their contracts, they could be compelled to fulfil them. But so long as they should fulfil their contracts, and be charged with no acts intrinsically criminal, a State government could no more interfere with them as banks, than it could interfere with anybody else for using a patented machine, or publishing a copyrighted book. And thus the business of banking (including the rates of interest and exchange) would be entirely relieved from all that arbitrary and tyrannical State legislation, which has hitherto been so annoying, vexatious, and injurious both to bankers and to the public.

If there is any business whatever, that ought to be free from all arbitrary restraints and interference, it is banking; for the reason that, in this country, the credit and currency furnished by the banks, are the direct mainsprings of nearly all our industry and commerce. All arbitrary restrictions upon banking, are, therefore, nothing else than arbitrary restrictions upon industry and commerce; and are as absurd, injurious, and tyrannical as would be arbitrary restrictions upon the use of steam engines, water wheels, locomotives, or any other machinery or instrumentalities by which our industry and commerce are carried on.

If banking is an intrinsically criminal business, it should be prohibited altogether. If it is an innocent and useful one, it should be free from all arbitrary restrictions and interference, like any other honest business. Free competition, and freedom from all arbitrary interference, in banking, will furnish the best currency and credit, and at the cheapest rates, just as free competition, and freedom from all arbitrary interference, in all other business, furnish the best commodities, and at the lowest prices.

CHAPTER V.

UNCONSTITUTIONALITY OF THE LEGAL TENDER ACTS OF
CONGRESS.

THE general government is attempting, by its legal tender acts, and its bank act, to force into circulation its own currency, and the currency of banks authorized by itself; and to force out of circulation all other currency; or to bring it down to a level with its own. This makes it necessary to consider the constitutionality of the legal tender acts of Congress.

Those, who imagine that the legal tender acts of Congress are constitutional, seem to imagine that Congress have power to fix, *and do fix*, the legal tender in payment of debts in all cases whatsoever; that they have power not only to prescribe *what* shall be the legal tender in payment of all debts, but also to say *how much of any thing whatever* (which they may choose to call a legal tender) shall be sufficient to satisfy any debt whatsoever; that, in short, Congress have power to declare arbitrarily what, and how much, all contracts, between man and man, shall amount to; and at their pleasure or discretion, to make them more, less, or other than the parties have made them.

Thus they hold, *in effect*, that men have no power, *of themselves*, to make obligatory contracts; and that men's contracts with each other have, of themselves, no validity at all, which the laws are bound to recognize and maintain; but that it rests with Congress, in their discretion, or at their will, to alter men's contracts, and make them valid for more, less, or other than the parties have agreed on.

All these enormous conclusions legitimately and necessarily

follow from the idea that the late legal tender acts of Congress are constitutional.

But, in truth, Congress have no powers whatever of this kind. Parties make their own contracts; and Congress have no power whatever to make them more, less, or other than the parties have made them. Congress have no power to say *how much of any thing* — gold and silver coin, or any thing else — shall be sufficient to satisfy any contract whatever between man and man.*

Parties make their own contracts. Of course they, and they alone, fix the tender. That is, they agree what, and how much, is to be paid. Otherwise there would, in law, be no contract. A contract to pay no particular thing, and no particular quantity of any thing, would, in law, be no contract at all. To make a contract, then, is necessarily to fix the tender. Parties cannot make valid binding contracts otherwise than by themselves fixing the legal tender, both in kind and amount.†

What the debtor agrees to pay, and the creditor to receive, is the legal tender, and the only legal tender, both in kind and amount, in payment of that debt. And Congress have no au-

* Unless it be that, under the "power to pass uniform laws on the subject of bankruptcy," they can say how much or little of a bankrupt's effects, shall be sufficient to entitle him to a discharge from his debts.

† The case where one man promises to pay another what the latter's labor, for example, *shall be worth*, leaving the precise amount to be ascertained afterward, is no exception to the principle stated in the text; for, in law, that is certain, which can be made certain. And in the case of all contracts, of the kind mentioned, it is presumed that the value of the labor can be ascertained, or made certain.

Neither is the case, where the particular kind of thing to be paid, is not specially mentioned by the parties, an exception to the principle stated in the text. In such a case the law presumes, *on the ground of probability*, that it was understood between the parties that coin was to be paid; because that is the thing most commonly agreed by the parties to contracts, to be paid. But that probability can be rebutted, in any particular case, if it can be shown, from any circumstances, such, for example, as previous dealings between the parties, that it was more probably understood between them, at the time of the contract, that payment should be made in something else than coin.

thority in the matter, to alter the legal tender, or make the contract more, less, or other than the parties themselves have made it. If it were not so, men would be deprived of all power of making their own contracts.

Thus, where a contract is to pay one hundred bushels of wheat, one hundred bushels of wheat constitute the legal tender, and the only legal tender, in fulfilment of that contract, or in payment of that debt; and Congress have no power to alter it. Congress have nothing to do with the matter.

So, too, if one man contracts to convey his farm to another, that farm is the legal tender, and the only legal tender, in fulfilment of that contract.

So, if one man contracts to give his horse to another, for value received, that horse is the legal tender, and the only legal tender, in fulfilment of that contract; and Congress have nothing to do with the matter.

On the same principle, when one man has contracted to pay another a hundred dollars, a hundred dollars constitute the legal tender, and the only legal tender, there can be in the case. *Not because Congress have made the dollars a legal tender: but because the parties themselves made the dollars the tender in that particular case*; just as, in the cases before supposed, the parties made the wheat, the farm, and the horse, the legal tender in those cases respectively.

If Congress can fix the tender, in payment of a debt, independently of the agreement of the parties, they can make at least *a part* of a contract between the parties, without their consent. But Congress have no more power to make any part of a contract between two parties, without their consent, than they have to make a whole one.

Congress have no power whatever in regard to legal tender, beyond what can be found in these words of the Constitution, to wit: "The Congress shall have power to coin money, and regulate the value thereof, and of foreign coin."

This is the only power given to Congress on the subject. And

here is no power given, *in express terms*, to make the coin mentioned, either domestic or foreign, “a legal tender in payment of debts.” It is only by carefully analyzing all the terms of the provision, that, even by inference or implication, such an authority can be extracted from it. Let us see.

What is it “to coin money?” It is simply to weigh and assay pieces of gold, silver, or other metals, and stamp them in a manner to certify their quantity and quality—that is, their weight and fineness. This is the whole of it. And, *so far as this simple act of coining goes*, there is nothing that makes the coins a legal tender; or that gives Congress any authority to make them a legal tender.

After the pieces have been coined, they are sold by Congress in the market, and are afterwards sold by individuals in the market, for just what they may chance to bring, like any other merchandise; Congress having no control over their market value.

If a debtor agrees to pay, and a creditor to receive, these pieces of coin, the coins are thereby made the legal tender in payment of that particular debt. They thereby become necessarily the legal tender; *not because Congress have so prescribed, but because the parties have so agreed*. The parties, and not Congress, make them the legal tender.

Parties are under no legal obligation to make their contracts payable in coin—that is, in dollars. They are at perfect liberty to make them payable in wheat, corn, hay, iron, wool, cotton, pork, beef, or any thing else they choose. And when they do so make them, these other commodities become the tender; just as dollars become the tender when dollars are promised.

The whole object of coining money, therefore—*so far as a legal tender is concerned*—is, not to enforce any particular tender upon the parties to contracts, but that there may be in the community certain commodities, *suitable for a legal tender*—that is, whose quantities and qualities may be precisely known—*in order to facilitate the making and fulfilling of contracts by the parties, and the enforcing of them by the courts, with*

perfect certainty and precision. It is to furnish something, known to the law, and fixed by the law, and about which there may be no controversy between parties, and no doubt on the part of the courts, as to whether or not it is the identical thing—in kind, quantity, and quality—that was promised to be delivered.

When contracts are made to be fulfilled by the payment of wheat, wool, cotton, iron, &c., disputes are liable to arise between the parties as to whether the commodities tendered are of the precise quality with the ones promised. Hence litigation arises; and litigation too, which it is extremely difficult for courts to settle justly; because it is very difficult, and often impossible, for a court to know the precise quality of the commodities promised, as understood by the parties themselves at the times of their contracts.

It is desirable, therefore, that there should be something, known to the law, and which may be promised to be delivered, and about the quality of which there can be no dispute. Such a commodity serves both to prevent controversy and litigation, and to enable courts to settle them justly and truly when they do arise.

So far, then, as a legal tender is concerned, the whole object of the Constitution, in giving Congress “power to coin money,” is, not at all to take away from parties their natural power and right to make such contracts as they please, or to impair their contracts when made, *but to aid them in making precisely such contracts as they wish*; and to insure the enforcement of the contracts, by the courts, precisely as the parties made them.

The object of the Constitution is to give the people *additional facilities* (beyond what nature has provided) for making their own contracts, and having them accurately enforced; and not at all to take from them any natural power or right to make such contracts as they please; or to give Congress any power to interfere with, control, invalidate, or impair the contracts made.

But, secondly, Congress have power not only “to coin money,” but also “to regulate the value thereof, and of foreign coin.”

What is it “to regulate the value thereof, and of foreign

coin?" Certainly it is not to fix the current value of the coins, *relatively to other commodities*. It is not, for example, to say how much wheat, wool, cotton, iron, hay, or any thing else, one dollar, or five dollars, in coin, shall buy.

For Congress to fix the value of the coins, relatively to other commodities, would be equivalent to their fixing the value of other commodities relatively to coin. But that, clearly, is a matter for parties to agree upon; and one with which Congress have nothing to do.

What, then, is this power of Congress "to regulate the value thereof, and of foreign coin?"

If the Constitution had said simply that Congress should have "power to coin money, and regulate the value thereof"—omitting the words "*and of foreign coin*"—the legal conclusion probably would have been, that Congress should only have power to coin money, and regulate the *intrinsic* value thereof—that is, fix, at their discretion, the quantity and quality of the metals of which the coins should be composed. But since Congress have "power to regulate *the value of foreign coin*"—the *intrinsic* value of which has already been fixed by the governments that coined them—we are, *perhaps*, under a necessity to *infer* that the power given to Congress "to coin money, and regulate the value thereof, and of foreign coin," is a power to fix the legal value of all these different coins *relatively with each other*; that is, a power to say how many coins of one kind or denomination, shall be equal in value to a given number of another kind, or denomination.

But, if we accept this inference, we are also under a necessity to infer that it is only in the single case of a "tender in payment of debts," that this legal value of the coins, as fixed by Congress, can be set up; for, in all other cases, it is clear that the parties to contracts are at perfect liberty to give and receive more or less for any one of the coins, than they would for any others of the same legal value.

It is, therefore, only by this *inference*, and this process of

reasoning, that we can come to the conclusion that Congress have any power at all to fix the value of their own coins, and of foreign coins, for the purposes of a "tender in payment of debts."

And when we thus find that Congress may, perhaps, have a certain power relatively to "a legal tender in payment of debts," we find that, at most, it is only a power to fix the value of the different coins, *relatively to each other*; and not relatively to other things. In other words, we find that it is a power simply to say, for example, that five dollars, in silver, shall be equal to one half eagle in gold; that an English pound sterling, shall be equal to four dollars eighty-five cents of United States coin; and that a French Napoleon shall be equal to three dollars eighty-five cents of United States coin. And that it is only in the single case of "a tender in payment of debts," that even this legal value of the coins, *relatively to each other*, can be fixed by Congress. In all other cases, all the different coins may be legally bought and sold at just such values as the parties to contracts may choose to put upon them.

The most, therefore, that can be said, in favor of the power of Congress, is, that they have power to coin money, and regulate the value of the different pieces thereof, and of foreign coin, *relatively to each other, for the single purpose of a tender in payment of debts*; and that they have no other power over the subject.

This power of Congress, it is to be noticed, is not a power to *make* the coins a legal tender, (when the parties to contracts have not done so;) but only a power to fix the value of the different coins, *relatively to each other, when the parties to contracts shall have made them a tender*. In other words, it is only a power to say that, when the parties to contracts shall have agreed upon the amount of coin, or the number of dollars, to be paid, they shall be understood to have contracted for so much coin, or so many dollars, of any, or all, these different kinds, (at the option of the debtor,) and not for any one kind of coin,

or one kind of dollars, rather than another of the same legal value.*

This power of Congress leaves parties at full liberty to make their own contracts; and consequently to fix their own tender, (without fixing which there can be no contract.) It only enables Congress virtually to prescribe beforehand what particular *words or terms*—such as dollar, eagle, dime, cent, and so forth—when used by the parties to contracts, shall be understood to mean. Just as Congress, in fixing the standard of weights and measures, virtually prescribe beforehand what the terms bushel, yard, rod, foot, acre, pound, gallon, &c., when used by the parties to contracts, shall be understood to mean.

This power of Congress to prescribe what certain terms, such as dollar, bushel, and the like, when used in contracts shall be understood to mean, is a power that can be exercised only within

* It was no doubt the intention that the legal value of the coins, relatively to each other, should correspond precisely with their mercantile value, relatively to each other. But as such might not always happen to be the fact, *it would seem* that if a contract were made for the delivery of coins of a specific kind, those coins only could be a legal tender in fulfilment of that contract; and that the legal value of the coins could be set up only in cases where the specific coins to be delivered had not been designated by the contract.

By this it is not meant that the particular name or denomination of the coin, as used in the contract, is always *necessarily* to determine the denomination in which the tender is to be made. As, for example, if a contract were simply for the delivery of "a hundred dollars," it is not meant that a hundred *separate* coins, of one dollar each, must be paid; and that ten eagles would not be a legal tender; because ten eagles *are* "a hundred dollars." That is, they include a hundred dollars; just as twenty five bushels include a hundred pecks. An eagle is ten dollars; that is, ten dollars consolidated, or united. The law considers a "dollar," or "unit," (as the act of Congress expresses it,) *to be, not necessarily a separate coin, but a given quantum of gold or silver.* And an eagle contains, or consists of, ten of these "dollars," or "units." Therefore, if a contract were made simply for "a hundred dollars," ten eagles would be a tender of the precise number of "dollars," or "units," contracted for.

But if a contract were made for "a hundred *silver* dollars," then ten gold eagles would *probably not* be a legal tender in fulfilment of that contract; because the mercantile value of the former might exceed that of the latter; or the promisee might have some special use for the particular coins he had contracted for.

very narrow limits, to wit, the limits of prescribing that those terms shall be understood to mean either such coins and measures as Congress shall have previously established and designated by the same terms, or such coins and measures as Congress shall have previously designated as the equivalents of the coins and measures designated by those terms.

The object of giving to Congress these powers "to coin money, and regulate the value thereof, and of foreign coin, *and fix the standard of weights and measures,*" is not at all to give Congress any power to control parties in making their contracts; nor any power to alter or impair their contracts when made; but only to provide certain coins, weights, and measures, that shall be known alike to courts and people, in all the States, according to which contracts *may* be made, *if the parties shall so choose*; and according to which contracts may be fulfilled, *when the parties shall have so agreed*.

Congress have plainly no more right to alter the tender, when the parties have agreed on one, than they have to alter a measure, when the parties have agreed on one. Congress have no more power, for example, to say, when a man has promised to pay a hundred dollars, that he shall be required to pay but fifty, or that he may tender something else than dollars, (or other coin of equal legal value,) than they have to say that, when he has promised to deliver a hundred bushels of wheat, he shall be required to pay but fifty; or that he may tender oats, apples, or onions, instead of wheat.

In short, Congress have no power whatever over men's contracts, except simply to say that when men shall have agreed to pay a certain number of coins, of a denomination or denominations which Congress shall have previously designated as being of the same legal value with certain other coins, this legal value of all the coins, *relatively to each other*, shall be recognized by the parties and the courts, and the contracts shall be fulfilled and enforced accordingly; and that when parties shall have agreed to pay a certain number of bushels, yards, or pounds, of any thing,

it shall be understood that the bushels, yards, and pounds agreed upon, are such bushels, yards, and pounds as Congress shall have previously designated.

This power of Congress to designate beforehand certain coins, weights, and measures, with reference to which contracts may be made, (if the parties so choose,) with the certainty of having them accurately and truly fulfilled, is totally different from a power to control, alter, or impair men's contracts, by prescribing that more, less, or other than the parties have agreed on, shall be a legal tender in fulfillment of their contracts. The former power is a power *in aid* of men's natural power and right to make their own contracts, and have them truly and accurately enforced. The latter power would be a power wholly destructive of all men's natural rights to make their own contracts, or to have them enforced.

This attempt, on the part of Congress, to alter the tender, from what the parties to contracts have agreed on, and to require parties and courts to recognise any thing but "coin" as "a legal tender" in fulfilment of contracts for the payment of coin, is one of the most naked, impudent, and wicked usurpations that can be conceived. There is not a syllable in the Constitution that gives the slightest color of authority for any such enactment.

When a man has contracted, for value received, to deliver a plough, have Congress any constitutional power to enact that he may tender a gun, in fulfilment of that contract? Or if he has contracted to deliver a horse, have Congress power to enact that he may tender a bull? If a man has contracted to convey his farm, for value received, have Congress any power to enact that he may tender cats, dogs, snakes, and toads, in fulfilment of that contract? If a milliner has contracted to deliver a bonnet, have Congress power to enact that she may tender a wheelbarrow, or a handcart? If a jeweller has contracted to deliver a necklace, have Congress any power to enact that he may tender a coal hod? If a man has contracted, for value received, to deliver, to a lady, chairs, sofas, carpets, mirrors, and pictures, for her parlor, have

Congress power to enact that he may tender tar, turpentine, oil, and lampblack, instead of the things agreed on? If a handsome and spirited young man has promised marriage with a young and beautiful woman, have Congress power to enact that he may tender a decrepid old man in his stead? Just as much constitutional power have Congress to do any and all these absurd and ridiculous things, as they have to alter men's contracts, or make any thing but "coin" a tender, where coin has been promised.

If Congress, under "the power to coin money, and regulate the value thereof, *and of foreign coin*," have power to say that United States notes shall be a legal tender in payment of debts, they have evidently the same power to say that *foreign notes* — or the notes of foreign nations — shall also be a legal tender. If the word "*coin*," as used in the Constitution, includes government notes, then certainly the words "*foreign coin*" include foreign government notes. So that, on the theory that Congress have power to make the United States notes a legal tender, it necessarily follows that they have equal power to make the notes of all other governments a legal tender.

Furthermore, the explicit provision of the Constitution, that "No State shall make any thing but *gold and silver coin* a tender in payment of debts," is additional and conclusive evidence, if any more could be needed, that Congress have no power to make any thing but *coin itself* a tender.

But it is said that Congress have power to debase the coin, and thus impair the value of existing contracts; and that, if Congress can impair existing contracts by debasing the coin, they have equal power to impair them by making something else than coin a tender.

It is true that Congress have power to debase the coin; but it is utterly untrue that they have any power to affect the value of existing contracts by so doing. It might as well be said that they have power to reduce the bushel, gallon, and yard measures; and by so doing reduce the value of existing contracts for the delivery of grain, spirits, and cloths.

It is an established principle in law, that the words of a contract are to be taken in the sense in which they are used at the time the contract is entered into; and that nothing subsequent can alter that meaning. Contracts for so many pieces of coin, are contracts for the things signified by those words at the time; and not for other and different things, that may be created afterwards, and made to bear the same names. In other words, contracts are for things, and not for mere names.

But the technical lawyer will, perhaps, inquire how can the original contract be enforced, or judgment be given for the coin contracted for, after the current coin of the country has been debased? The answer is, that in case of non-performance of contract, the principal has his option of two remedies, viz.: first, to bring suit for specific performance — that is, to compel the delivery of the identical thing promised, where its delivery is reasonably possible; and, second, where he does not desire the delivery of the identical thing promised, or where such delivery has become impossible, he can sue for the damage; the damage to be estimated and paid in the coin current at the time of the judgment.

Suppose, therefore, that from this day, the standard coin were to be debased to one half the value of the present standard; a creditor under a preexisting contract would have a right to demand payment of the original coin contracted for; and if payment were refused, he would have a right to sue for specific performance — that is, for the delivery of the particular coin contracted for. And it would be the duty of the court to enforce such delivery, if coin of the original standard were still in circulation so that its delivery was reasonably possible. But if the original coin had so far disappeared as to make its delivery practically impossible, then the creditor could sue for the damage; and it would be the duty of the jury, in estimating the damage, to take into account the relative value of the coin contracted for, and the debased coin, in which the damage was to be paid; and

to give judgment for such an amount of the latter as would be equal in intrinsic value to the former.

There would be as much reason in saying that Congress have power, by *increasing* the value of the standard coin, to increase the value of existing contracts for coin, as there is in saying that they have power, by debasing the coin, to diminish the value of existing contracts for coin.

In short, contracts for the delivery of coin, at a future time, are not simply contracts for such coins as may, at that future time, happen to bear the names mentioned in the contracts. But they are contracts for such amounts of real gold and silver as the terms employed signify at the times when the contracts are entered into.

We will now consider the argument closed, so far as it relates to the power of Congress to make government notes a legal tender, under their "power to coin money, and regulate the value thereof, and of foreign coin."

But, inasmuch as some of the courts, that have acted upon the question, have pretended that the power to make the notes a legal tender is *included* in some of the other powers of Congress, such as the powers "to borrow money," "to lay and collect taxes," "to regulate commerce with foreign nations, and among the several States," and to carry on war, it may be proper to devote a few words to these points.

To determine whether the power to make the notes a tender is *included* in any, or all, the powers just mentioned, we must keep in mind that, when it is said that one power of Congress is *included* in another, it is meant that the former is a part of the latter; that the former is included in the latter, just as a part of any thing is included in the whole; for example, just as a peck of grain is included in the bushel of grain, of which it is a part; and just as an ounce of silver is included in the pound of silver,

of which it is a part; and just as a rod of land is included in the acre of land, of which it is a part.

We must also keep constantly in mind — what has been already shown, in the former part of this chapter — that the whole idea of a tender arises out of the contract of the parties themselves; that what the debtor agrees to pay, and what the creditor agrees to receive, is the tender; and that, from the very nature of contracts themselves, (which are only the consent or agreements of the parties,) nothing else is the tender, or can be made so.

Congress have no more power to fix the tender, in any case, without the consent of the parties, than they have to make any or all other parts of a contract, without the consent of the parties. Unless, therefore, Congress have power to make contracts *ad libitum*, on behalf of individuals, and without their consent, they clearly have no power to make that part of their contracts, which fixes the tender, or the commodity in which their debts are to be paid.

The question, then, to be determined is *equivalent to this*, namely, whether the powers of Congress “to borrow money,” “to lay and collect taxes,” “to regulate commerce with foreign nations, and among the several States,” and to carry on war, *include, as a part of themselves, a general and unlimited power of attorney, or a general and unlimited authority, to make any and all contracts, binding upon individuals, and binding their property, when the individuals themselves have made no contracts at all, and given no consent to those made in their name by Congress?*

Unless Congress have such a general and unlimited power of attorney, or such a general and unlimited authority, to make entire contracts, in the names and behalf of, and binding upon, individuals, without their consent, then they (Congress) have no manner of authority to make any contract whatever, *or any part of any contract whatever*, that shall be binding upon an individual, or that shall bind his property, when his own consent has not been given. And if they have no power to make any part of

a contract for him, they have no power to contract that he will accept this, that, or the other thing, in payment of debts due him, when he himself has made no such agreement; but has agreed only to receive such coin, grain, or other thing, as was specially mentioned in the contract.

Plainly the powers of Congress "to borrow money," "to lay and collect taxes," "to regulate commerce with foreign nations, and among the several States," and to carry on war, *include* no power at all to make or alter any contracts whatever for private individuals. They no more include a power to make or alter any part of a contract, for a private person, without his consent, than to make a whole contract for him, without his consent. They no more include a power to make any thing a tender in payment of debts due him, which he has not agreed to receive, than they include a power to make contracts, between individuals, to buy and sell, borrow and lend, give and receive, all kinds of property, when the individuals themselves have never agreed to any thing of the kind.

There would be just as much reason in saying that, in granting to Congress the powers "to borrow money," "to lay and collect taxes," "to regulate commerce with foreign nations, and among the several States," and to carry on war, the Constitution had given Congress an unlimited power of attorney to make any and all possible contracts whatsoever, on the part of private persons, for buying and selling, for borrowing and lending, for giving and receiving, their property of all kinds, as there is for saying that the Constitution has appointed Congress the attorney of private persons, for agreeing what they will receive in payment of their debts.

But let us consider these several powers separately —

1. The power of Congress "to borrow money on the credit of the United States."

The government notes, which Congress have declared to be a legal tender in payment of private debts, are issued under this power "to borrow money." And, therefore, this is the power

that *ought*—if any of the powers of Congress ought—to include the power to make the notes a legal tender. But does it?

Certainly not; and for this reason, viz.: That there is no natural or logical connexion whatever between the power of Congress to borrow money of one man, and give him their note for it, and a power to make that note a legal tender in payment of a debt due to another man, who was not a party to the loan. As there is no natural or logical connexion between two such powers as these, it follows that one cannot be *included* in the other.

This power of Congress “to borrow money,” is plainly a simple power to borrow it by private and voluntary contracts with those who choose to lend money to the United States. It has no reference to other persons, not parties to the loans, nor to the debts of individuals to each other. The act of borrowing is complete when Congress have obtained the money, and given their notes for it. There is an end of the whole transaction, so far as the “borrowing” of the money is concerned. And there is consequently the end of the power of Congress on that subject. It is preposterous to say that this power *includes, as a part of itself,* a power to make contracts, on behalf of other persons, not parties to the loan, as to what they will, or will not, receive, from *their debtors*, in payment of their debts.

When A lends money to B, and B gives his note for it, that contract *includes* no contract—and implies no power on the part of B to contract—that C, D, E, and every body else will receive his (B’s) note in payment of any debts that may be due them. A and B, in this case, have no power whatever to make any contracts whatever affecting other men’s rights.

So when Congress borrow money of A, and give him their notes for it, the contract is, in all respects, like that between two individuals. It includes no contract—and implies no power on the part of Congress to contract—that B, C, D, or any body else will accept the notes which Congress give to A for the money, as a legal tender in payment of debts due them.

The act of “borrowing money on the credit of the United

States," is, in its nature, a wholly private and voluntary contract between Congress and the lender of the money. It is as much a private and voluntary transaction, as is the borrowing and lending of money between two individuals. No other persons, than Congress and the lender of the money, are parties to the loan. No other parties are consulted, nor allowed any voice, in regard to the matter. How, then, can it be said that the power of Congress to borrow money of A, by private and voluntary contract with him, *includes* a power to agree, on behalf of B, C, D, and every body else, who had nothing to do with the loan, that they will accept from their debtors, in satisfaction of the debts due them, something different from what they had agreed to receive, and their debtors had agreed to pay?

Plainly there is no manner of relation or connexion between two powers so utterly dissimilar and foreign to each other. Consequently one is not included in, and does not constitute a part of, the other.

The only other powers that could possibly be said to be naturally, logically, or impliedly *included* in this power of Congress "to borrow money," would be the powers to raise money by taxes or otherwise, and repay what they had borrowed. But these powers, instead of being left to implication, as being *included* in the power "to borrow money," are expressly conferred by the Constitution, in these other words, viz.: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, *to pay the debts*, and provide for the common defence and general welfare, of the United States."

Thus the Constitution has given to Congress, *in express terms*, all the powers that naturally belong together, or depend upon, or make parts of, each other, to wit: the powers to borrow money, and to raise money by taxes, &c., and pay what they have borrowed.

How absurd, then, is it, when the Constitution has been so explicit in granting all the powers on this subject, that are naturally related to each other, or in any way depend upon each other, to

say that the power to borrow money *includes* still another power, and one, too, entirely foreign to the subject, viz. : a power to make the notes, given for borrowed money, a legal tender in payment of debts to persons who had nothing to do with the loan.

2. The power of Congress "to lay and collect taxes, duties, imposts, and excises."

It is said that this power includes a power to say in what coin, currency, or other things, the taxes, duties, &c., shall be paid. Very well; suppose it does. How does this power to designate the commodity in which taxes shall be paid to the government, include any power to make contracts, on behalf of private persons, as to what commodities they will, or will not, accept in payment of debts due them?

For the sake of the argument, it may be granted that Congress have power to enact that all taxes, &c., to the United States shall be paid in *pigs*. But does that power *include* a general power of attorney, from every body in the United States, to agree that they will accept pigs in payment of all debts due them?

If a man owes the United States one, two, three, five, or ten pigs, as taxes, it may be practically necessary that he should either raise the pigs, or buy them. If he should not, Congress may have power to order the sale of so much of his property as will purchase pigs to the amount of his taxes. But all this implies no power whatever, on the part of Congress, to usurp his rights of making his own contracts, and to agree, on his behalf, and without his consent, that he will accept pigs in payment of any, or all, debts due him.

3. The power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

What is commerce? It is the purely voluntary act of two or more persons. It is the buying and selling, the borrowing and lending, the giving and receiving, of commodities by voluntary agreement between the buyer and seller, the borrower and lender, the giver and receiver.

What is it "to regulate commerce?" It is to secure and pro-

tect all voluntary commerce between individuals, that is *naturally and intrinsically just and lawful*; and to prohibit all commerce that is *naturally and intrinsically unjust and unlawful*.

This power of *Congress*, therefore, "to regulate commerce," is simply a power to secure and protect all commerce "with foreign nations, and among the several States, and with the Indian tribes," that is naturally and intrinsically just and lawful; and to prohibit all commerce that is naturally and intrinsically unjust and unlawful. And this is the whole of the power; unless possibly the power may include a power to render such *incidental aid* to the commerce of private persons, as it may be reasonable for Congress to render, and such as may be beneficial to the parties carrying on the commerce.

But the power of Congress "to regulate commerce," includes no power, on their part, to usurp the commerce of private persons. It includes no power to usurp the power of making contracts on behalf of private persons, without their consent. It includes, for example, no power to alter the contracts of private persons, and convert contracts for the delivery of grain, wool, or cotton, into contracts for the delivery of ice, iron, or coal. Of course, it includes no power to alter contracts for the delivery of coin, into contracts for the delivery of government notes.

It has been said by the Supreme Court of the United States, that the power of Congress "to regulate commerce," is a power "to prescribe the rule by which commerce is to be governed."*

Using the terms "prescribe," "rule," and "governed," in the senses in which the court evidently intended to use them — that is, to signify the exercise of arbitrary authority over commerce — this definition is an utterly false and atrocious one. It would give Congress power arbitrarily to control, obstruct, impede, derange, prohibit, and destroy commerce.

* *Gibbons vs. Ogden*, 9 *Wheaton*, 196.

It would also give Congress power to force men to carry on commerce against their will.

To force men to carry on commerce against their will, would be no more unjust or tyrannical than it is to prohibit, impede, or obstruct commerce, when men wish to carry it on.

It is a natural right of all men (who are mentally competent to make reasonable contracts) to make such contracts as they please, for buying and selling, borrowing and lending, giving and receiving, property, provided only that there be no fraud or force used, and that the contracts have in them nothing intrinsically criminal or unjust.

The free right of buying and selling, borrowing and lending, giving and receiving (by contracts naturally and intrinsically just and lawful) all property that is naturally a subject of bargain and sale, is among the most vital and valuable of all a man's natural rights. And this right Congress have no power to interfere with, under pretence of "regulating commerce."

Even the power of restraining commerce, otherwise just and lawful, in order to guard against contagious diseases and public enemies, is no exception to the principle laid down; for that commerce is not intrinsically just and lawful, which carries with it contagious diseases, or introduces, or opens the door to, public enemies.

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

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

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

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

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

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

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

Of course this power of Congress "to regulate commerce,"

includes no power to pervert, alter, impair, or destroy the natural or intrinsic obligation of men's contracts. Consequently it includes no power to convert a contract for the payment of gold and silver, into a contract for the delivery of government notes, or any thing else, to which the parties have never agreed.

If the power of Congress to regulate commerce were such an absolute power, as the Supreme Court represents it to be, viz. : a power "to prescribe the rule by which commerce is to be governed," this absurd result would follow, viz. : that all the legislation of Congress on the subject would be *necessarily constitutional*; and the Supreme Court itself would have no right even to consider the question of its constitutionality. It would have no function to perform in regard to such legislation, except simply to interpret and execute it. In ascribing such absolute power to Congress, therefore, the Supreme Court is really denying and abjuring its own constitutional power to judge of the constitutionality of the laws of Congress. Who, before, ever imagined that the constitutionality of the laws of Congress, in regard to commerce, was not a proper subject for judicial consideration, and adjudication?

But even if the power of Congress "to regulate commerce" were of that arbitrary and tyrannical character, which the court declares it to be, it would still be insufficient to accomplish the object of making the government notes a legal tender in payment of debts *generally*; inasmuch as the power is only a power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." It is not a power to regulate the purely internal commerce of a State — that is, commerce between two persons living within the same State. It could, therefore, do nothing towards making the government notes a tender between two such persons. Its practical effect, therefore, would be, in a great measure, defeated by this limitation upon the power itself.

4. The power to carry on war.

The Constitution grants this general power to Congress in the

form of the several separate powers given below, (with the limitations upon them,) to wit:

“The Congress shall have power to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water: To raise and support armies; but no appropriations of money to that use shall be for a longer term than two years: To provide and maintain a navy: To make rules for the government and regulation of the land and naval forces: To provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions: To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress.”

In the name of common sense, how can it be said that any or all these powers *include* a power to meddle with, make, alter, or abolish the contracts of private individuals with each other? Or — what is equivalent thereto — to make any thing a legal tender in payment of private debts, which the parties themselves have never agreed to? The former powers are all naturally so entirely foreign to the latter, that, at first view, it would scarcely seem more ridiculous to say that the power of Congress “to define and punish piracies and felonies on the high seas, and offences against the law of nations,” *included* a power to make government notes a legal tender in payment of private debts, than it does to say that the power of Congress to carry on war includes the power to make those notes a tender.

There would obviously be just as much reason, just as much congruity of ideas, and just as much natural and logical consistency, in saying that, because Congress have power to carry on war, and, in doing so, have occasion to sell old army stores, old horses, old muskets, old ships, and old war material in general, therefore the power of Congress to carry on war, *includes* a power to enact that whenever any old war material shall be sold, it shall become a legal tender, in the hands of the purchasers and

their assigns, in payment of all private debts, as there is in saying that, because Congress have power to carry on war, therefore, that power must include a power to make the notes given by them for money to carry on the war, a legal tender in payment of private debts.

There is just as much natural connexion between the power of Congress to carry on war, and a power, on their part, to make old war material, thus sold by them, a legal tender in payment of private debts, as there is between their power to carry on war, and a power to make the notes, given by them for money borrowed for the war, a legal tender in payment of private debts.

But it is said that Congress can borrow money cheaper, if they make their notes a legal tender, in the hands of the holders, than if they do not. So, also, it may just as well be said, that they can sell their old horses, old knapsacks, old muskets, old cannon, and old ships at higher prices, if they make them legal tender, in the hands of the purchasers and their assigns, than if they do not. If, then, the argument of profit is a sound one, in favor of the power, in one case, it is equally sound in the other.

But there is still another absurdity in this matter. The Constitution does not give absolute and unqualified power to Congress for carrying on war. It does not even give all the powers, which — but for the special limitations mentioned — would have been *naturally and logically included* in the general power to carry on war. For example, it says “No appropriation of money to that use shall be for a longer term than two years.” It also “reserves to the States respectively the appointment of the officers [of the militia] and the authority of training the militia, according to the discipline prescribed by Congress.”

When the Constitution is so jealous of the public rights that it expressly withholds from Congress certain powers, which otherwise would have been naturally and logically included in the general power to carry on war, how absurd is it to say that their power to carry on war includes — *without its being so mentioned* — a power so utterly foreign and irrelevant to it, and so

destructive of the principles of justice, as is the power to alter and impair men's contracts by making government notes a tender in payment of private debts.

There would be just as much reason in saying that the power of Congress to carry on war, *includes* a power to make the speeches delivered in Congress in favor of the war, a tender in payment of men's debts, as there is in saying that it includes a power to make the government notes such a tender.

It will now be taken for granted that it has been shown that neither the power "to borrow money," "to lay and collect taxes," "to regulate commerce with foreign nations, and among the several States," nor to carry on war, gives Congress any power to make government notes a legal tender in payment of private debts.

But it is said, by some of those who attempt to uphold the legal tender acts, that Congress not only have certain specific powers granted to them by the Constitution — such as the powers to borrow money, carry on war, &c. — but that they have another, and a very comprehensive, power, viz. :

5. The "power to make all laws which shall be *necessary and proper* for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or any department thereof."

Some, or all, those persons, who have quoted this provision, as authorizing the legal tender acts, say that Congress are the sole judges of what laws are thus "necessary and proper," and have, therefore, unlimited powers to pass any laws they see fit, provided only that the laws will *tend* to carry into execution the other constitutional powers of Congress, and are not *actually forbidden* by the Constitution. Consequently they say that, as the Constitution has *not forbidden* Congress to make their notes a legal tender, and as the making them such will aid in borrowing money for the war, they necessarily have the power to make them such.

In other words, they say, in effect, (and without saying so, their argument would amount to nothing,) that all laws whatsoever — *no matter how unjust in themselves* — that will, *in any way*, serve to accomplish a constitutional end — such as borrowing money, carrying on war, &c. — are constitutional means to that end, if Congress shall decide to use them, *and if the Constitution has not forbidden those particular laws*.

In short, their argument is, that the simple injustice of the laws is, of itself, no argument against their being “necessary and proper,” and, therefore, constitutional.

And they say, further, that, in the case of *McCulloch vs. Maryland*, the Supreme Court of the United States has declared this same doctrine.

One answer to these persons is, that the Supreme Court did not say, either expressly or impliedly, in the case of *McCulloch vs. Maryland*, that the injustice of a law could not be taken into consideration in determining whether it were “necessary and proper,” and, therefore, constitutional — if it would but tend to accomplish a constitutional purpose, and if the Constitution had not forbidden it.

Another answer is, that if the Supreme Court had declared such a principle, they would have as much deserved to be hanged, as any criminal that ever mounted the gallows.

If all laws of Congress, *however unjust*, are nevertheless constitutional, *if not forbidden*, and if they will tend to accomplish any constitutional end, there is scarcely any conceivable injustice which Congress might not constitutionally authorize, as being “necessary and proper” means of accomplishing constitutional ends.

For example: The Constitution does not, in so many words, forbid Congress to prohibit all loaning of money to private persons, until Congress shall have borrowed all they wish, and at such rates as they please. The Constitution does not, in so many words, forbid Congress to prohibit matrimony on the part of each and every individual, until he or she shall have loaned one, five,

ten, or fifty thousand dollars to the government. It does not, in so many words, forbid Congress to cause scalding water to be thrown upon the children of all persons who refuse to lend their money to the United States. It does not, in so many words, forbid Congress to make it a criminal offence — punishable with confiscation, imprisonment, or death — to refuse to lend money to the government, in such amounts, for such times, and at such rates of interest, as Congress may prescribe, or without any interest at all. Such laws might, perhaps, aid Congress in borrowing money at lower rates than they otherwise could. But would such laws be, therefore, constitutional? And would courts have no power to declare them unconstitutional? Certainly such laws would be, not simply unjust, but also unconstitutional. And certainly it would be the duty of the courts to declare them so. But they would be no more clearly unconstitutional, than are the laws making the government notes a legal tender in payment of private debts.

The Supreme Court, in the case mentioned, did not say one word in favor of Congress having power to pass *unjust laws* — as being “necessary and proper” to accomplish constitutional ends — if they were not forbidden.

The language of the court is not, perhaps, so explicit as it ought to be. And, without ascribing to that court any immaculate purity, it may be said that their opinion is, very likely, not so explicit as it would have been, if they had supposed there would ever come after them judges so ignorant, or so corrupt, as to cite their opinion in support of a proposition so infamous.

The precise words of the court are these :

“Let the end be legitimate, let it be within the scope of the Constitution, and all means which are *appropriate*, which are plainly adapted to that end, which are not prohibited, *but consist with the letter and the spirit of the Constitution*, are constitutional.”—4 *Wheaton*, 421.

And the court said nothing inconsistent with these limitations,

viz. : that all laws, in order to be “necessary and proper” for carrying into execution the constitutional powers of Congress, must be “*appropriate*” to the end in view, and must also “*consist with the letter and the spirit of the Constitution.*”

What, then, are “the letter and spirit of the Constitution” on these particular subjects of legal tender, and the inviolability of private contracts? They are to be found in these four provisions, viz. :

1. “Congress shall have power to coin money, and regulate the value thereof, and of foreign coin.”

2. “Congress shall have power to establish uniform laws on the subject of bankruptcies, throughout the United States.”

3. “No State shall make any thing but gold and silver coin a tender in payment of debts.”

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

These provisions — and there are no others conflicting with them either in letter or spirit — give us fully and distinctly both “the letter and the spirit of the Constitution,” relative to legal tender, and the inviolability of contracts. What countenance do they give to any power in Congress to impair or destroy men’s contracts, by authorizing them to be paid in something which the debtor never agreed to pay, nor the creditor to receive?

But there is still another mode of ascertaining whether the Constitution authorizes Congress to pass any *unjust laws*, as being “necessary and proper” for carrying into execution the powers specifically granted. And that mode is furnished by the primary rule of interpretation, which is acknowledged to be authoritative for interpreting all legal instruments whatever which courts enforce. That rule is, that an innocent meaning — a meaning favorable to justice — *and no other*, must be given to all legal instruments — whether contracts, statutes, constitutions, or treaties — whose language will possibly bear that meaning.

The Supreme Court of the United States have laid down the rule in these words :

“Where rights are infringed, where fundamental principles are overthrown, where the general system of the laws is departed from, the legislative intention must be expressed with irresistible clearness, to induce a court of justice to suppose a design to effect such objects.”*

The same rule, in substance, but in different words, is continually laid down by courts, in their interpretations of constitutions, statutes, and contracts. Every judge, not an ignoramus, is perfectly familiar with the rule. And every judge, who ever violates the rule, is either ignorant or corrupt. The test is an infallible one.

This rule is as applicable to the interpretation of the Constitution as of any other instrument whatever; and is sufficient, of itself, to prove that the Constitution authorizes no *unjust laws* whatever (unless explicitly mentioned) as being “necessary and proper” for carrying into execution the general powers granted to the government.

Of course, the rule is sufficient to prove that the Constitution gives Congress no power to impair or destroy the obligation of men’s private contracts, as a means of borrowing money a little cheaper than they otherwise could.

It is sickening to think that there can be found judges so ignorant or unprincipled, as to argue that the Constitution authorizes all manner of unjust laws, except those that it forbids. And yet this is what these judges have been necessitated to do, who have attempted to sustain the legal tender acts of Congress.

If those who framed the Constitution, had undertaken to enumerate — in order to forbid — all the unjust laws that Congress might otherwise devise and enact, under pretence of carrying out their constitutional powers, the instrument would never have been completed. They, therefore, contented themselves with framing an instrument that should grant certain important powers to the government, with “power to make all laws which shall be *necessary and proper* for carrying into execution the foregoing pow-

* *United States vs. Fisher et al.* 2 Cranch, 390.

ers," &c.; trusting that the instrument, being avowedly instituted "to establish justice, insure domestic tranquility, promote the general welfare, and insure the blessings of liberty," would find interpreters honest enough to give it the benefit of a rule that would at least forbid all injustice, that was not specially licensed by it. And this was all that was really necessary, in a legal point of view.

Nevertheless, after the Constitution had been adopted, the country — having some knowledge of the propensity of legislative bodies to disregard all constitutional and moral restraints, and to resort to all manner of injustice, under the pretext of its being "necessary and proper" for accomplishing some desirable purpose or other — did append various amendments to the Constitution, specially enumerating, and forbidding, some of those unjust laws, which it was supposed Congress would otherwise be most likely to enact.

Among the laws thus explicitly forbidden, were laws "prohibiting the free exercise of religion;" "abridging the freedom of speech or of the press;" "infringing the right of the people to keep and bear arms;" "depriving persons of life, liberty, or property, without due process of law;" "taking private property for public use, without just compensation;" and several others. Having done this, the country then — as if aware of the impossibility of enumerating all laws that ought to be forbidden, and by way of imposing a general prohibition against all unjust laws not specially enumerated — added these two comprehensive amendments, viz. :

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

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

These amendments are supplementary to all other provisions, and rules of interpretation, and are, of themselves, sufficient, if

any thing more were needed, to prohibit any and every species of injustice, that is not (in the language of the Supreme Court) licensed in terms of "irresistible clearness."

The only argument, on which the legal tender acts are really attempted to be sustained, is equivalent to this: That Congress have constitutional power to license universal fraud, the violation of all faith, and the disregard of all justice, between man and man, in their private dealings, if the government can thereby borrow money cheaper than it otherwise could.

At the value at which the legal tender notes now stand in the market,* the government says to all debtors throughout the country: If you will lend to the government the money you honestly owe to your creditors, the government will license you to defraud them of some thirty or forty per cent. of what you owe them. The government holds this out as a standing offer to all debtors; and, perhaps, by so doing, it saves one, two, or three per cent. on the amount it borrows; *and perhaps not.*

If, now, the government may rightfully resort to such means as these to save a small per centage on its loans, it may, on the same principle, license those men, who lend money to the government, to commit all manner of crimes against their neighbors with impunity. †

* This is written in March, 1864.

† Having considered, in the text, as fully as was intended, the power of Congress in regard to legal tender, it may be necessary to say a few words in regard to the power of the States.

Whatever the powers or duties of the States may be on this subject, Congress have nothing to do with them, and can constitutionally prescribe no rules to the States, beyond what has already been shown in the text.

The *Constitution itself* forbids the States to "make any thing but gold and silver coin a tender in payment of debts."

The meaning — or at least one meaning — of this is, that when the parties to a contract have agreed upon coin, as the thing to be paid, the States shall not alter that agreement, and authorize the debtor to cancel his debt with something else than coin.

But the question arises, what is the power of the States in regard to contracts,

But, were it not that Congress might attempt to pass new tender laws, all the preceding argument might have been spared; because their existing laws, declaring United States notes a legal tender, are utterly void for still another reason than the want of any constitutional power on the part of Congress to make any thing but "coin" such a tender. That other reason is, *that the acts do not declare the value of the notes; or how much they shall be a tender for.* Congress seem to have taken it for

in which coin is *not* promised; but in which grain, or some other thing, is the tender agreed upon?

Here plainly the States cannot interfere to alter the tender, even to make it coin; because the States are forbidden to "pass any law impairing the obligation of contracts."

But if the debtor do not tender the thing agreed on, and tender it too within the time agreed on, the creditor is under no obligation to accept it afterwards. He may then, at his option, either sue for specific performance — that is, to compel the delivery of the identical thing promised; or he may sue, not technically for the debt itself, but for the damage resulting from the non-performance of the contract. This damage, of course, includes not only an amount equal to the debt, but also any other damage the creditor may have sustained from the non-payment of the debt at the time agreed on.

In these suits for damage, it is customary (whether law requires it, or not,) for the creditor to estimate his damages in coin, and to claim that they be paid in coin.

But, technically at least, debt and damage are two different things; and, therefore, there may, perhaps, be a question whether, when the creditor sues in damage, and not in debt, the States are constitutionally required to cause damage to be paid in coin? or whether they may require the creditor to accept other property of the debtor at a fair valuation? This question I will not attempt to settle. The *spirit* of the constitutional provision, that "No State shall make any thing but gold and silver coin a tender in payment of debts," would obviously require, as a general rule, that damage, no less than debt, should be paid in coin. And probably the word "debts," in the provision mentioned, ought to be interpreted to include dues of all kinds. Yet possibly a narrower interpretation may be admitted. And if it may, cases may, possibly, be supposed, where, owing to a dearth of coin, occasioned by war, famine, or other great public calamity, it being practically impossible for a debtor to pay coin, a State would be justified in making other property a tender in payment of *damage*, even though the Constitution forbids the making it a tender in payment of *debt*.

But whether a *State* has any discretion of this kind, or not, *Congress* certainly have none at all.

granted that by simply declaring that they "shall be lawful money, and a legal tender in payment of all debts public and private," they had virtually declared that these mere promises to pay dollars should be held equivalent to an equal number of real dollars. But such would not be the legal effect of the statute, even if we were to admit the constitutional power of Congress to make the notes a tender. It would still be necessary for Congress to specify precisely the *value* the notes should have, *relatively to coin*. Suppose that Congress (having power to do so) had enacted that apples, onions, and potatoes, "shall be lawful money, and a legal tender in payment of all debts public and private," it would not follow, from this form of words, that each apple, onion, or potato, was to be considered either a dollar, or the equivalent of a dollar. Neither, because Congress have declared that certain government promises to pay dollars, "shall be lawful money, and a legal tender in payment of all debts public and private," does it follow (without its being so specified) that these promises are to be considered, for the purposes of such tender, equal in value to the number of dollars promised.

But the men, who enacted these tender laws, and the judges, who have attempted to sustain them, have assumed that a promise to pay a dollar was to be considered the equivalent of a dollar, for the purposes of legal tender; when the acts themselves said nothing of the kind; and nothing from which any inference could *legally* be drawn, as to *what* value they were to have, as a tender.

The necessary consequence is that — for this reason alone, if there were no other — all the existing acts of Congress making United States notes a tender in payment of "*private* debts," are void.*

* Even if a promissory note were written, for example, (as I believe some notes are) for "*a hundred dollars payable in United States legal tender notes*," that is not, as the makers of such notes seem to suppose, a promise to deliver a hundred legal tender notes for one dollar each, (or their equivalents,) but it is a promise to pay so many legal tender notes as, *at their market value*, will be equal

The fact that such a blunder as this should pass the ordeal of Congress, and of four or five courts, shows what brilliant and careful lawyers Congress and the courts are made up of.

in value to a hundred dollars in coin. If a man give his note for "a hundred dollars, *payable in wheat*," that is not a promise that the wheat shall be delivered *at the rate of a bushel for each dollar promised*; but it is a promise that so much wheat shall be delivered, *at its market value*, as shall make the amount paid equal in value to a hundred dollars in coin. So a promissory note for "a hundred dollars, payable in United States legal tender notes," is, in law, a promise to pay so many notes as, at their market rate, will be equal in value to a hundred dollars in coin. Men may, therefore, well be careful how they write their promissory notes, if they intend to pay them in legal tender notes.

CHAPTER VI.

UNCONSTITUTIONALITY OF THE NATIONAL BANK ACT.

The National Bank Act is unconstitutional in various particulars, as follows :

1. It proceeds throughout on the assumption that the notes of the government will be a legal tender in payment of all debts due to and by the banks. If, then, the Legal Tender Acts of Congress are unconstitutional, as shown in the preceding chapter, the Bank Act must fall with them ; for the banks, authorized by the act, cannot sustain themselves for an hour, as practical business institutions, if liable to be sued on their notes for specie ; nor can the customers of banks, if solvent men, afford to borrow depreciated currency, and give their notes for it, if they are liable to be sued on those notes for specie. The unconstitutionality of the Legal Tender Acts, therefore, settles at once all questions as to the *practicability* of the national banks.

2. The guaranty of the notes of the banks by the government is unconstitutional.

Where did Congress get their power to guarantee the notes of banks all over the country ? In the same clause of the Constitution that gives them power to guarantee the notes of all the farmers, mechanics, merchants, and every body else, throughout the country ; and in no other. And that clause will be found, if at all, in the Constitution manufactured by Congress themselves. It certainly exists in no Constitution that the country has ever known any thing of previous to the last Congress.

But it will be said that Congress secure the United States against loss, by requiring a deposit of their own bonds with the

United States Treasurer. Well, suppose they do. Have Congress the power to guarantee the notes of all other persons, who will deposit bonds or other property, satisfactory to Congress, to indemnify the United States against loss? If not, then they have no power to guarantee the notes of bankers on those conditions. And if any officer of the government should ever pay a dollar of the public money on any such guaranty, or if the President should suffer any officer of the government to pay a dollar on any such guaranty, he ought to be impeached. And if any judge, having jurisdiction, should refuse to enjoin the United States Treasurer against thus paying the public money, he would deserve impeachment.

The idea that Congress have any constitutional power to guarantee the notes of bankers, or of any body else, is perfect idiocy.

3. As Congress have no constitutional power to guarantee the notes of bankers, or any body else, and as such guaranty, if given, is void, they have no constitutional power to require or accept deposits of their own bonds, or of any other property, to indemnify the United States for such unconstitutional and void guaranty. Consequently all such deposits are, in law, void; and Congress have no authority to avail themselves of them. Any bonds actually deposited with the United States Treasurer, for such a purpose, are, in law, deposited with him as an individual, and not as an agent or officer of the United States; and Congress have no power to make the United States responsible for his safe keeping of the bonds. And he is in no manner responsible to the United States for the use he makes of the bonds. The owners of them may demand them at pleasure, on the ground that they were deposited for no lawful purpose, and that the United States have no lien upon them. Or the Treasurer may appropriate them to his own use, and Congress could call him to no account for so doing. The owners alone could have any action against him.

Suppose Congress were to appoint agents throughout the country, to receive deposits of property, from all persons who might

choose to make them, and thereupon to furnish, to the depositors, notes guaranteed by the United States. We all know that all such transactions would be void in law, on the grounds that Congress had no power to make any such guaranty, or consequently to receive any deposits of property to protect the United States against it. Congress would have no power to make the United States responsible for the safe keeping of such deposits; or to hold their illegal agents to any legal responsibility for the property deposited with them. These pretended agents of the United States would be, in law, the agents of the depositors alone; and the depositors could recover their deposits at pleasure, without any interference from the United States. And the case is the same with these bankers, as it would be with any other persons, farmers, merchants, or others, who might deposit property with any pretended agent of the United States, and receive in exchange notes guaranteed by the United States.

Congress have just as much constitutional power to go into a general guarantee business, guaranteeing the notes of any body, and every body, as they have to guarantee the notes of bankers.

4. The undertaking of Congress to furnish the banks with the notes they are to use, is unconstitutional. Where did Congress find their power to go into the business of bank note engraving? In the same clause of the Constitution that gives them power to go into the daguerreotype business; and in no other. Congress have just as much power to furnish the banks with banking houses, with vaults, safes, desks, and stationery; and to appoint and pay their presidents, cashiers, and clerks, as they have to furnish the bills of the banks. And the fact that Congress are to be paid for the bills they furnish, and that the business may be a profitable one, does not at all alter the case. There are, perhaps, many kinds of business that might be made profitable, if Congress were to take it into their own hands, and suppress all competition. But it does not, therefore, follow that Congress can go into such business.

Congress have just as much power to go into the business of

making farming utensils, and selling them to the farmers; of making machinery, and selling it to manufacturers; of making locomotives, and selling them to rail-road companies, as they have to go into the bank note business.

5. Congress have no power to incorporate these banking companies, or give them any corporate privileges, or hold them to any corporate responsibility whatever.

As long ago as 1819, in the case of *McCulloch vs. Maryland*, (4 Wheaton's Reports,) the Supreme Court of the United States gave an opinion, which fully covers the Bank Act of Congress, and declares it unconstitutional. In that case the court held that the law incorporating the old bank of the United States *was* constitutional. But they declared it so, *distinctly and solely*, on the ground that the bank was a necessary, or at least a proper and useful, agency to be employed in keeping and disbursing the public monies. And those services the bank was required, by its charter, to perform, free of expense to the government; transmitting money from one part of the country to another, without any charge for exchange.*

Thus the court say :

“Throughout this vast republic, from the St. Croix to the Gulf of Mexico, from the Atlantic to the Pacific, revenue is to be collected and expended, armies are to be marched and supported. The exigencies of the nation may require that the treasure raised in the North should be transported to the South, *that* raised in the East conveyed to the West, or that this order should be reversed. Is that construction of the Constitution to be preferred which would render these operations difficult, hazardous, and expensive ?” Page 408.

* Section 15 of the charter is in these words :—“That during the continuance of this Act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place, within the United States, or the Territories thereof, and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange, and shall also do and perform the several and respective duties of the Commissioners of loans for the several States, or any one or more of them, whenever required by law.”

“It is not denied that the powers given to the government imply the ordinary means of execution. That, for example, of raising revenue, and applying it to national purposes, is admitted to *imply the power of conveying money from place to place, as the exigencies of the nation may require, and of employing the usual means of conveyance.* But it is denied [by the counsel opposed to the bank] that the government has its choice of means; or that it may employ the most convenient means, *if to employ them, it be necessary to erect a corporation.*

“On what foundation does this argument rest? On this alone: The power of creating a corporation, is one appertaining to sovereignty, and is not expressly conferred on Congress. This is true. But all legislative powers appertain to sovereignty,” &c. Page 409.

“If a corporation may be employed indiscriminately with other means to carry into execution the powers of the government, no particular reason can be assigned for excluding the use of a bank, *if required for its fiscal operations.* To use one must be within the discretion of Congress, if it be an appropriate mode of executing the powers of the government. That it is a convenient, a useful, an essential instrument *in the prosecution of its fiscal operations,* is not now a subject of controversy. All those who have been concerned in the administration of our finances, have concurred in representing its importance and necessity; and so strongly have they been felt, that statesmen of the first class, whose previous opinions against it had been confirmed by every circumstance which can fix the human judgment, have yielded those opinions to the exigencies of the nation. Under the Confederation, Congress, justifying the measure by its necessity, transcended perhaps its powers to obtain the advantages of a bank; and our own legislation attests the universal conviction of the utility of this measure.” Page 422-3.

By the “fiscal operations” of the government, the court must be supposed to mean simply the keeping and disbursing of the public money; for those were the only “fiscal operations” the bank was required, by its charter, to perform for the government; and they were also the only “fiscal operations,” *that were specially pointed out by the court,* as being such as the bank *could perform* as the agent of the government. The bank was, therefore, held constitutional solely upon the ground of its being

a proper and useful agent of the government for keeping and disbursing the public money.

The point of the opinion was, that, if the government needed an agency of that kind, for executing any of its constitutional powers, it had a right to create one by an act of incorporation.

On this principle, if the government were to make a contract, with a body of men, to carry the mail, or furnish supplies for the army, it would have a right to incorporate them.

That was the *only* ground on which the court held that that bank charter was constitutional. The whole argument of the court proceeded upon the ground that Congress had no power to grant charters of incorporation, except to companies whose services were needed *by the government itself*, in performing some one or other of its constitutional duties.

If that opinion of the court was correct, it follows that the present Bank Act of Congress is *clearly unconstitutional*; inasmuch as the banks, authorized by it, are, in no sense, agencies of the government; and are not required, by the act, to perform any services whatever for the government. And Congress, therefore, have no more power to incorporate them, than they have to incorporate hospitals, schools, churches, rail-road, insurance, manufacturing, and mining companies.

It is worthy of notice, too, that notwithstanding the Supreme Court held that the charter of the old bank was constitutional, probably more than half the *people* of the United States have always believed it unconstitutional.

And it *was* unconstitutional, in so far as it licensed the stockholders to contract debts among the people, in their corporate capacity, and under a limited liability. Congress have no authority to pass any law impairing or limiting the obligation of men's contracts, or screening their property from liability for debt, unless it be a "uniform law on the subject of bankruptcies." A bank charter does not come within that definition; and therefore a bank charter is unconstitutional, in so far as it attempts to exempt the corporators from their liability as part-

ners, no matter what services the bank may perform for the government.

The argument of the court does not at all sustain the conclusion that Congress have any such power. That argument was that Congress had authority to "pass all laws that were necessary and proper for carrying into execution" the substantive powers of the government; and that, therefore, if a corporation were a convenient and proper agent to be employed in keeping and disbursing the revenues, Congress had a right to create such an agent. That is to say, if Congress wished to contract with a company of men to perform a certain service for the government, they had power to recognize them as a corporation, *so far as the performance of that particular service was concerned*. This all looks reasonable enough; and it is probably correct law that Congress may incorporate a company, and authorize them to do, in their corporate capacity, *any thing which they are to do for the government*. And Congress may undoubtedly limit, at discretion, the liability which the stockholders shall incur *to the government*. And the company may probably, in their corporate capacity, buy and sell bills of exchange, so far as it may be convenient to do so, in transmitting the public funds from one point of the country to another; because bills of exchange are the most usual, safe, cheap, and expeditious mode of transmitting money.

But all this is a wholly different thing from a charter authorizing the company, not only to perform these services for the government, but also to carry on the trade of bankers, in all its branches, and contract debts at pleasure *among the people*, without being liable to have payment of their debts enforced, either according to the natural obligation of contracts, or the laws of the States in which they live.

The argument of the court does not justify the grant of any such authority to the company. It goes only to the extent of authorizing the company to use their corporate rights in doing the business of the government alone; for the court say, that if

an agent be needed to perform certain services for the government, the government may create an agent for that purpose. The court admit also, that the need or utility of such an agent for carrying into execution the powers of the government, is the only foundation of the authority to create the agent. This principle clearly excludes the idea of creating the corporation for any other purpose; and of course it excludes the idea of giving it any other corporate powers than that of performing the services required of it by the government. Now, in order that the company may keep and disburse the revenues (which were the only services the government required, or which the opinion of the court contemplated that the bank would perform) it plainly was not at all necessary that they should have the privilege of contracting debts among the people, as bankers, in their corporate capacity, or under a limited liability, or with an exemption from the operation of those State laws, to which all other citizens are liable.

If Congress may, by a charter, protect the private property of a company of bankers, from liability for their banking debts, according to the laws of the States, merely because, in addition to their banking business, they perform for the government the service of keeping and disbursing its revenues, then, by the same rule, Congress may by law forbid the State governments to touch the private property of any Collector of the Customs, or of any clerk in the Custom House, for the purpose of satisfying his debts. And the result of this doctrine would be, that every person, who should perform the slightest service of any kind for the government, might be authorized by Congress to contract private debts at pleasure among the people, and then claim the protection of Congress, not merely for his person, but also for his property, against the State laws which would enforce the obligation of his contracts. Every postmaster, for instance, and every mail contractor might have this privilege granted to them as part consideration for their services; for Congress have as much power to grant this privilege to postmasters and mail carriers, in consid-

eration of the particular services they perform for the government, as they have to grant it to a company of bankers, as a consideration for their keeping and disbursing the revenues.

But suppose that Congress should enact that the private property of all officers and agents of the government, and all persons having contracts to furnish supplies to the government, should be exempt from liability for debt. Would there not be one universal outcry that such a law was unconstitutional? Certainly there would. But it would be no more unconstitutional than a law exempting the private property of a company of bankers, on account of their being the agents of the government for keeping and disbursing its revenues.

In this particular, then, the charter of the old bank was unconstitutional. And if that charter was unconstitutional, still more, if possible, are the charters of the present banks unconstitutional, inasmuch as these banks perform no services at all for the government. They *entirely lack* the *only* element that was supposed, by the court, to make the charter of the old bank constitutional.

If the Constitution itself gives Congress no power to incorporate banks, their law, for that purpose, cannot be made constitutional by the consent of the State legislatures. The constitutional powers of Congress, within a State, cannot be increased by the consent of the State legislature. If they could, the general government might have much greater powers in one State than in another. It might increase its powers in each State just according as it could make bargains with the legislature of the State. In fact, a State legislature might, by a simple vote, surrender all the constitutional powers of the State to the general government.

If the Bank Act be unconstitutional, the banks can have no corporate existence under it; and can neither sue, nor be sued, by their corporate names. The bankers can sue and be sued, if at all, only as partners; and they will be liable as partners for all debts of the banks.

If the act be unconstitutional, then all its provisions for pre-

venting frauds on the part of the bankers, are void, and the directors can commit all manner of frauds against both bill holders and stockholders, and no redress can be had, unless under the laws of the States relative to swindling; and even that redress would most likely prove of no practical value.

The directors, having obtained their bills of the United States Treasurer, by a deposit of bonds, would loan the bills to themselves, or to men confederated with them. They would then demand the bonds of the Treasurer, on the grounds that the Act was unconstitutional; that the United States were not holden for the bills, and had no lien upon the bonds, and were not even responsible for the safe keeping of the bonds. The Treasurer, unless he wished to embezzle the bonds himself, would give them up. If he should not give them up willingly, suit would be brought to compel him.

Having got the bonds, the directors would dispose of them, and put the proceeds in their pockets.

Having thus embezzled the capital and assets of a bank, if they should be indicted under the bank act itself, they would plead that the act was unconstitutional, and that there was, in law, no corporation. After one, two, or three years delay, that plea would be sustained, unless the court should overrule the opinion in *McCulloch vs. Maryland*, which is not to be expected.

On the other hand, if they should be indicted under the *State* laws, they would plead that the bank act *was* constitutional; and that they were liable only under that act. In this way they would tie up the case with law questions for as long a period as possible.

And whether indicted in the United States or in the State courts, they would make all possible delay, under pretence of procuring testimony as to their having made loans in good faith, but on securities which unexpectedly proved worthless. And before a decision should be reached, the funds would have all gone to the four winds.

The result would be that neither the stockholders nor the bill

holders would ever obtain any redress of any practical value. If the bill holders should ever obtain any redress, they would obtain it only by suing those innocent stockholders, who would have already been swindled out of their capital.

Nobody but dupes and swindlers would ever think either of investing in such banks, or of taking their bills.

6. Even if the Act in general were constitutional, the sixty-first section, declaring that any bank, incorporated under State laws, may "become an association under the provisions of this act," provided "the owners of two thirds of the capital stock of such banking corporation or association" shall consent to the change, would be unconstitutional.

When a body of men form themselves into a banking company, under a State charter, they legally enter into a *contract* with each other, that the capital, thus invested, shall be held and managed under that charter; and of course under that charter alone. For "the owners of two thirds the capital stock" of such a bank to divert that capital from the uses agreed upon, and invest it in banking under a charter granted by Congress, to which all the stockholders have not agreed, *is a breach of contract, and a breach of trust*, as against all non-concurring stockholders. And Congress have no more authority to authorize such a breach of contract, or trust, and such a diversion of the capital from the objects agreed upon, than they have to authorize "the owners of two thirds the capital stock" of a manufacturing company, an insurance company, or a church, to divert the whole capital from the objects for which it was contributed, and appropriate it to the establishment of a race course, a theatre, or a distillery.

And if the directors of a State bank should thus divert its funds, they would be liable, possibly to indictment, and certainly in civil actions for damages, on the part of the non-concurring stockholders.

There are some other provisions in the act, richly worthy of notice, as exhibiting the legal acumen, and the business sagacity,

of the Congress that passed it. But space cannot here be spared to present them.

The bill now before Congress,* (and which is likely to pass, as being necessary to force the National Bank Act upon the country,) prohibiting, after one year, all banking, (issuing bills for circulation,) except by bankers, "authorized thereto by act of Congress," is not merely unconstitutional; it is villainous. The Constitution does not require the people of this country to get *permits* from Congress for carrying on any innocent and lawful business. Nor does it give Congress any power to suspend all industry and commerce, except by persons "authorized thereto by act of Congress." If the Constitution did this, then, instead of spending so much blood and treasure to sustain it, we ought, (if it could not be otherwise abolished,) to spend the same blood and treasure to overthrow it. Congress have just as much constitutional power to say that no person shall *breathe* in this country, "unless authorized thereto by act of Congress," as they have to say that no man shall carry on the business of a banker, or any other innocent and lawful business, without being first licensed by act of Congress.

Congress have no more constitutional power to prohibit banking, than they have to prohibit farming, manufacturing, or commerce. They have no more power to prohibit banking, than they have to prohibit all the industry and commerce that are carried on by means of bank credits and currency. They have no more constitutional power to say that the people shall have no currency, except such as Congress shall have specially licensed, than they have to say that they shall have no farming utensils, no cattle, horses, sheep, pigs, or poultry, that they shall raise no crops, build no houses, eat no food, wear no clothing, except such as Congress shall have specially licensed. This proposition is so obviously and self-evidently true, that it would be wasting words and paper to expend any argument upon it.

* Introduced April 12.

But even if this bill should be considered constitutional, it would have no effect to prohibit the author's system of banking; because that has been already licensed by act of Congress — that is, by the copyright act. And that act is unquestionably *constitutional*; for it is *expressly* authorized by the Constitution. That license, therefore, must stand good, unless Congress commit a deliberate breach of faith. And even if Congress were to commit a deliberate breach of faith, by prohibiting the author's system, it would still be a question whether rights once vested and guaranteed, by a law that was unquestionably constitutional, could be destroyed by an act of wanton perfidy and spoliation? Whether that would not be “depriving a person of property without due process of law?” And whether it were not therefore expressly forbidden by the Constitution?

The other section of the same bill, imposing a discriminating tax of one-fourth of one per cent. a month upon all bills in circulation, issued by banks or bankers not “thereto authorized by act of Congress,” is equally unconstitutional and villainous with the section that is to prohibit all banking after one year. Inasmuch as Congress have no power to require the people to get permits from Congress for carrying on any innocent and lawful business, they have no power to impose a discriminating tax upon those who do not get such permits.

If Congress can impose a discriminating tax upon all who do not get permits from Congress to carry on their business, all the industry and commerce of the country may be brought under the arbitrary control of Congress; and permits to carry them on may be given out as privileges only to Congressional favorites.

There is no reason why bankers should be singled out for all this unconstitutional, absurd, tyrannical, and villainous legislation. By furnishing credit and currency to keep industry and commerce in motion, they do more for the wealth of the country than any other equal number of men, unless it be inventors. Their business is intrinsically as innocent and lawful as that of any other class of persons. The only complaints that can be made against

them, are, that there are not half enough of them, and that their systems of banking are not good ones. But these faults are not the faults of the bankers themselves, but of the laws that limit the number of bankers, and prohibit the adoption of other and better systems.

All the laws that are necessary in regard to banking, are such as are applicable to all other business, viz. : laws giving inventors the benefit of their inventions, and laws compelling the bankers to fulfil their contracts, and punishing their frauds and crimes. Such laws as these will give us the benefit of the best systems of banking that men can invent; and those are the best that, in the nature of things, we can have.

CHAPTER VII.

EXCHANGES UNDER THE AUTHOR'S SYSTEM.

It will be very easy, under the author's system, to give the currency a uniform value in all parts of the country; as follows:

In the first place, where the capital shall consist of mortgages, it will be very easy for all the banks, in any State, to make their solvency known *to each other*. There would be so many banks, that some system would naturally be adopted for this purpose.

Perhaps this system would be, that a standing committee, appointed by the banks, would be established, in each State, to whom each bank in the State would be required to produce satisfactory evidence of its solvency, before its bills should be received by the other banks of the State.

When the banks, or any considerable number of the banks, of any particular State — Missouri for example — shall have made themselves so far acquainted with each other's solvency, as to be ready to receive each other's bills, they will be ready to make a still further arrangement for their mutual benefit, viz.: to unite in establishing one general agency in St. Louis, another in New Orleans, another in Chicago, another in Cincinnati, another in New York, another in Philadelphia, another in Baltimore, and another in Boston, where the bills of *all* these Missouri banks shall be redeemed. And thus the bills of all Missouri banks, that belonged to the Association, would be placed at par at all the great commercial points.

Each bank, belonging to the Association, might print, on the back of its bills, "*Redeemable at the Missouri Agencies, in St. Louis, Chicago, Cincinnati,*" &c.

In this way all the banks of each State might unite to establish agencies in all the large cities for the redemption of their bills.

The banks might safely make *permanent* arrangements of this kind with each other; because the *permanent* solvency of all the banks might be relied on.

The permanent solvency of all the banks might be relied on, because, under this system, a bank, (whose capital consists of mortgages,) once solvent, is necessarily forever solvent, unless in contingencies so utterly improbable as not to need to be taken into account. In fact, in the ordinary course of things, every bank would be growing more and more solvent, because in the ordinary course of things, the mortgaged property would be constantly rising in value, as the wealth and population of the country should increase. The exceptions to this rule would be so rare as to be unworthy of notice.

There is, therefore, no difficulty in putting the currency, furnished by each State, at par throughout the United States.

At the general agencies in the great cities, the redemption would doubtless generally be made in specie *on demand*, because, at such points, especially in cities on the seaboard, there would always be an abundance of specie in the market as merchandize; and it would, therefore, be both for the convenience and interest of the banks to redeem in specie on demand, rather than by a conditional transfer of a portion of their capital, and then paying interest on that capital until it should be redeemed with specie.

Where rail-roads were used as capital, all the banks in the United States could form one Association, of the kind just mentioned, to establish agencies at all the great commercial points, for the redemption of their bills.

Where United States Stocks should be used as capital, the same system could be safely adopted, for redeeming their currency in all the great cities, as where mortgages were the capital; because, although United States stocks are below par of specie, yet every bank, using them as capital, could know that the cur-

rency of every other bank of the same kind was worth *at least as much* as the stocks it should represent. Since there would be always a dollar of the stocks in bank, for every dollar of currency that could be put in circulation, the banks could always know the lowest possible value of each other's currency, by knowing the market value of the stocks it should represent.

The currency might sometimes be worth *more* than the capital, dollar for dollar; because, although the capital (U. S. stocks) should be below par of specie in the market, yet the bank might have assets (in the shape of notes discounted, and profits accumulated) equal, or more than equal, to its capital. And these assets must all be exhausted, in the redemption of its bills with specie, before its bills could be worth less than par of specie. But suppose all these assets exhausted, the currency would still be worth *as much as the capital*, dollar for dollar; because the capital itself can be demanded for the currency, if specie be refused. Although, therefore, the currency of banks, based upon United States stocks, might be sometimes worth *more* than the stocks, (when these were below par of specie,) it can never be worth *less* than the stocks. And as the market value of the stocks would be always known, the lowest possible value of the currency (for the time being) could always be known. The bills of a bank, based upon United States stocks, would, therefore, be worth, all over the country, at least as much as the stocks.

It is doubtful, however, whether currency of that kind, always liable to be below par of specie, and variable at that, could be made a desirable one. It would, therefore, probably not be expedient to use United States stocks as banking capital, on the plan of issuing a dollar of currency for a dollar of stocks. The better way of using the stocks as banking capital, while they are so much below par of specie, would probably be to put in two dollars of bonds to make one of banking capital. This would make the bank capital worth a little more than par of specie; and would, of course, make the currency worth par of specie.

Using United States stocks in this way — that is, using two

dollars of bonds to make one of banking capital — the United States bonds now extant, and those hereafter to be issued, would probably afford a basis for as much currency as the banks could keep in circulation; especially if mortgages or rail-roads should be used as a basis in competition with the bonds.

If, however, the stocks should ever rise to par, and stand there permanently, and it should be found desirable to issue more currency upon them, the banks using two dollars of bonds for one of capital could be dissolved, and new ones formed, that should use the stocks at their par value, and issue currency upon them accordingly.

A P P E N D I X .

THE AUTHOR'S COPYRIGHT.

INASMUCH as some persons have suggested that the author's copyright of his Articles of Association may be evaded, he has thought proper to exhibit some of the obstacles, both practical and legal, in the way of any such evasion.

The practical obstacles — or at least some of them — are shown in the following "NOTE," republished from his "NEW SYSTEM OF PAPER CURRENCY."

NOTE.

The subscriber believes that the right of property in ideas, is as valid, in the view both of the Common and constitutional law of this country, as is the right of property in material things; and that patent and copyright laws, instead of superseding, annulling, or being a substitute for, that right, are simply aids to it.

In publishing this system of Paper Currency, he gives notice that he is the inventor of it, and that he reserves to himself all the exclusive property in it, which, in law, equity, or natural right, he can have; and, especially, that he reserves to himself the exclusive right to furnish the Articles of Association to any Banking Companies that may adopt the system.

To secure to himself, so far as he may, this right, he has drawn up and copyrighted, not only such general Articles of Association as will be needed, but also such other papers as it will be necessary to use separately from the Articles.

Even should it be possible for other persons to draw up Articles of Association, that would evade the subscriber's copyright, banking companies, that may adopt the system, will probable find it for their interest to adopt also the subscriber's Articles of Association; for the reason that it will be important that Companies should all have Articles precisely, legally, and verbally alike. If their Articles should all be alike, any legal questions that may arise, when settled for one Company, would be settled for all.

Besides, if each Company were to have Articles different from those of others, no two Companies could take each other's bills on precisely equal terms; because their legal rights, as bill holders, under each other's Articles, would not be precisely alike, and might be very materially different.

Furthermore, if each Company were to have Articles of Association peculiar to itself, one Company, if it could take another's bills at all, could not safely take them until the former had thoroughly examined, and satisfactorily ascertained, the *legal* meaning of the latter's Articles of Association. This labor among banks, if Companies should be numerous, would be intolerable and impossible. The necessity of studying, understanding, and carrying in the mind, each other's different Articles of Association, would introduce universal confusion, and make it impracticable for any considerable number of Companies to accept each other's bills, or to cooperate in furnishing a currency for the public. Each Company would be able to get only such a circulation as it could get, without having its bills received by other banks. But if all banks have precisely similar Articles of Association, then one Company, so soon as it understands its own Articles, understands those of all other Companies, and can exchange bills with them readily, safely, and on precisely equal terms.

Moreover, if each separate Company were to have its peculiar Articles of Association, it would be wholly impossible for *the public* to become acquainted with them all, or even with any considerable number of them. It would, therefore, be impossible for the public to become acquainted with their legal rights, as bill holders, under all the different Articles. Of course they could not safely accept the currency furnished by the various Companies. But if all the Companies should have Articles precisely alike, the public would soon understand them, and could then act intelligently, as to their legal rights, in accepting or rejecting the currency.

The subscriber conceives that the Articles of Association, which he has drawn up, and copyrighted, are so nearly perfect, that they will never need any, unless very trivial, alterations. In them he has intended to provide so fully for all exigencies and details, as to supersede the necessity of By-Laws. This object was important, not only for the convenience of the Companies themselves, but because any power, in the holders of Productive Stock, to enact By-Laws, might be used to embarrass the legal rights of the bill holders under the Articles of Association.

Besides, as the holders of Productive Stock are liable to be continually changing, any power, in one set of holders, to establish By-Laws, would be likely to be used to the embarrassment, or even injury, of their successors.

It is obviously important to all parties, that the powers of the Trustees, and the rights of all holders, both of Productive and Circulating Stock, should be legally and precisely fixed by the Articles of Association, so as to be incapable of modification, or interference, by any body of men less than the whole number interested.

LYSANDER SPOONER.

Boston, 1861.

Some of the *legal* obstacles, in the way of an evasion of the author's copyright, will be seen in the following Acts of Congress, and in the subjoined legal authorities as to what constitutes an infringement of copyright.

Act of Congress of 1819, Chap. 19, Sec. 1, authorizes the courts to grant injunctions against infringers.

Act of Congress of 1831, Chap. 16, Sec. 6, provides for the punishment of infringers as follows:—

1. "Such offender shall forfeit every copy of such book to the person legally, at the time, entitled to the copyright thereof."

Under this clause of the Act infringers would forfeit not merely those copies of their Articles of Association, which they should design to circulate, for the information of other banks and the public, but also those copies which should *bear their own signatures, and which alone should constitute them a company*. The forfeiture of these latter copies would dissolve the company; because there would then be no legal evidence of the existence of the company.

The company being dissolved, the holders of the currency would have no redress, except by suing the bankers for fraud.

The infringers would also forfeit their records of the transfers of the capital stock of the company; because the forms of transfer were necessarily peculiar, and are separately copyrighted, as well as included in the general copyright of the Articles of Association. By this forfeiture the legal evidence of the ownership of the stock would be lost.

The bills of the banks—that is, those found in the hands of the bankers, or of any other persons who should have taken them knowing of the infringement—would be forfeited; for the bills were necessarily peculiar, and are separately copyrighted.

The same would be true of copies of all the other papers that are separately copyrighted, comprising ten in all.

2. "Such offender * * shall also forfeit and pay fifty cents for every such *sheet* which may be found in his possession, either printed, or printing, published, or exposed to sale, contrary to the intent of this act, the one moiety thereof to such legal owner of the copyright as aforesaid, and the other to the use of the United States, to be recovered by action of debt in any court having competent jurisdiction thereof."

Under this clause of the Act, the infringers will be liable to pay fifty cents for each "sheet" of all copies of the Articles of Association, and also for each *sheet* of the papers separately copyrighted, such as the bills, certificates of stock, transfers, &c., &c. And each separate bill, certificate of stock, or other paper, however small, is a "sheet," within the meaning of this Act.

The following authorities are given to show what constitutes an infringement, (or "*piracy*," as the infringement of a copyright is technically called).

LEGAL AUTHORITIES RELATIVE TO COPYRIGHT.

1. "Where the adoption and use of the matter of an original author, whose work is under the protection of copyright, is direct and palpable, and nothing new is added but form or dress, or an immaterial change of arrangement, the law will treat the matter as merely colorable, and will stamp it with the character of piracy"—[infringement].—*Curtis on Copyright*, 188.

2. "Copying is not confined to literal repetition, but includes also the various modes in which the matter of any publication may be adopted, imitated, or transferred, with more or less colorable alterations to disguise the piracy."—*Curtis on Copyright*, 253.

3. "Where the resemblance does not amount to identity of parallel passages, the question [of piracy, or infringement] becomes, in substance, this—whether there be such a similitude and conformity between the two books, that the person who wrote the one must have used the other as a model, and must have copied or imitated it? In these cases the piracy is to be detected, through what have been called colorable alteration, and servile imitation."—*Curtis on Copyright*, page 256.

4. "If the court can see proof that the defendant had the work of the plaintiff before him, and used it as a model for his own, in copying and imitating it, without drawing from common sources, or common materials, it will hold the resemblances to be not accidental, and not necessary, notwithstanding the alterations and disguises that may have been introduced."—*Curtis on Copyright*, page 259.

5. "It is not necessary, to amount to piracy, that one work should be a copy of the other, and not an imitation. There may be a close imitation, so close as to be a mere evasion of the copyright, without being an exact and literal copy."—*Curtis on Copyright*, page 259.

6. "The general doctrine of the law is, that none are entitled to save themselves trouble and expense, by availing themselves, for their own profit, of other men's works, still entitled to the protection of Copyright."—*Curtis on Copyright*, page 264.

7. "In the analagous case of patent rights, the subject of an existing and valid patent cannot be taken as the superstructure of an improvement. If the improvement cannot be used, without the subject of an existing grant, the inventor of the improvement must wait until the grant has expired. But he may take out a patent for the improvement by itself, and sell it."—*Curtis on Copyright*, page 264, note.

8. Judge Thompson (U. S. Court) said :

"The law was intended to secure to authors the fruits of their skill, labor, and

genius, for a limited time; and if, in this instance, the defendant had availed himself of the surveys of the plaintiff in compiling his chart, the plaintiff was entitled to a verdict."—*Blunt vs. Patten*, 2 *Paine's Circuit Court Reports*, p. 396.

9. Lord Mansfield said :

"The Act that secures copyrights to authors, guards against the piracy of the words and sentiments; but it does not prohibit writing on the same subjects. As in the case of histories and dictionaries."—*Quoted in note to Blunt vs. Patten*, 2 *Paine's C. C. R.*, page 402.

10. In regard to the copyright of a musical composition, Judge Nelson (U. S. Court) said :

"The composition of a new air or melody is entitled to protection; and the appropriation of the whole, or of any substantial part of it, without the license of the author, is a piracy [infringement]. * * If the new air be substantially the same as the old, it is no doubt a piracy. * * The original air requires genius for its construction; but a mere mechanic in music, it is said, can make the adaptation or accompaniment. The musical composition, contemplated by the statute, must doubtless be substantially a new and original work; and not a copy of a piece already produced, with additions and variations, which a writer of music with experience and skill might readily make. Any other construction of the Act would fail to afford the protection intended to the original piece from which the air is appropriated. The new arrangement and adaptation must not be allowed to incorporate such parts and portions of it as may seriously interfere with the right of the author; otherwise the copyright would be worthless."—*Jolie vs. Jaques et al*, 1 *Blatchford's Circuit Court Reports*, pp. 625-6.—*U. S. Digest for 1852*,—*Title Copyright*.*

11. In the case of *Folsom et al, vs. Marsh et al*, Judge Story said :

"It is certainly not necessary, to constitute an invasion of copyright, that the whole work should be copied, or even a large portion of it, in form or in substance. If so much is taken that the value is sensibly diminished, or the labors of the original author are substantially, to an injurious extent, appropriated by another, that is sufficient in point of law, to constitute a piracy *pro tanto*. The entirety of the copyright is the property of the author; and it is no defence that another person has appropriated a part, and not the whole, of any property. Neither does it necessarily depend upon the quantity taken, whether it is an infringement of the copyright, or not. It is often affected by the value of the materials taken, and the importance of it to the sale of the original work. Lord Cottenham, in the recent cases of *Bramhall vs. Halcomb*, (3 *Mylne and Craig*, 737-738,) and *Saunders vs. Smith*, (3 *Mylne and Craig*, R. 711, 736, 737,) adverting to this point, said, 'When it comes to a question of quantity, it must be

* On the point of title, the court say :—"A copyright is given for the contents of a work, not for its mere title. There need be no novelty in that which is but an appendage."—*Page 627*.

very vague. One writer might take all the vital part of another's book, though it might be but a small portion of the book in quantity. It is not only quantity, but value, that is always looked at. It is useless to refer to any particular cases, as to quantity.' In short, we must often, in deciding questions of this sort, look to the nature and object of the selections made, the quantity and value of the materials used, and the degree in which the use may prejudice the sale, or diminish the profits, or supersede the objects, of the original works."—2 *Story's C. C. R.* p. 115.—*Curtis on Copyright*, p. 248, note.

12. Extracts from Judge Story's opinion in the case of *Emerson vs. Davies*, 3 *Story's Circuit Court Reports*, p. 768.

HEAD NOTES TO THE CASE.

1. "Any new and original plan, arrangement, or combination of materials, will entitle the author to a copyright therein, whether the materials themselves be new or old."

2. "Whoever by his own skill, labor, and judgment, writes a new work, may have a copyright therein, *unless* it be directly copied, or *evasively imitated* from another work."

4. "To constitute a piracy [infringement] of copyright, it must be shown that the original work has been either substantially copied, or *has been so imitated as to be a mere evasion of the copyright.*"

EXTRACTS FROM THE OPINION OF STORY, JUDGE.

"An author has as much right in his plan, and in his arrangements, and in the combination of his materials, *as he has in his thoughts, sentiments, opinions, and in his modes of expressing them.* The former, as well as the latter, may be more useful, or less useful, than those of another author; but that, although it may diminish or increase the relative values of their works in the market, *is no ground to entitle either to appropriate to himself the labor or skill of the other, as embodied in his own work.*" Page 782.

"No person had a right to borrow the same plan, and arrangement, and illustrations, and servilely copy them into any other work." Page 783.

"If the defendant, *Davies*, had before him, at the time, the work of the plaintiff, and used it as a model for his own plan, arrangement, examples, and tables, then I should say, following the doctrine of Lord *Ellenborough*, in *Roworth vs. Wilkes*, that it was an infringement of the plaintiff's copyright, *notwithstanding the alterations and disguises in the forms of the examples and the unit marks.*" Page 792.

"A man has a right to the copyright of a map of a State or country, which he has surveyed, or caused to be compiled from existing materials, at his own expense, or skill, or labor, or money. Another man may publish another map of

the same State or country, by using the like means or materials, and the like skill, labor, and expense. *But then he had no right to publish a map taken substantially and designedly from the map of the other person, without any such exercise of skill, or labor, or expense. If he copies substantially from the map of the other, it is downright piracy; although it is plain that both maps must, the more accurate they are, approach nearer in design and execution to each other. He, in short, who, by his own skill, judgment, and labor, writes a new work, and does not merely copy that of another, is entitled to a copyright therein: if the variations are not merely formal and shadowy, from existing works.*" Page 781.

"In *Trusler vs. Murray*, (1 East R. p. 362, note,) Lord Kenyon put the point in the same light, and said: 'The main question here, was, *whether, in substance, the one work is a copy and imitation of the other.* * * The same doctrine was recognized by the Court of King's Bench, in *Cary vs. Longman & Rees* (1 East, p. 358); and it was finally acted on in *Mathewson vs. Stockdale* (12 Vesey, page 270), and *Longman vs. Winchester* (16 Vesey, p. 269), and *Wilkins vs. Aiken* (17 Vesey R., p. 422, 424, 425), in the Court of Chancery. So that, I think, it may be laid down as the clear result of the authorities in cases of this nature, *that the true test of piracy [infringement] or not, is to ascertain whether the defendant has, in fact, used the plan, arrangements, and illustrations of the plaintiff, as the model of his own book, with colorable alterations and variations only to disguise the use thereof; or whether his work is the result of his own labor, skill, and use of common materials, and common sources of knowledge, open to all men, and the resemblances are either accidental, or arising from the nature of the subject. In other words, whether the defendant's book is, quoad hoc, a servile or evasive imitation of the plaintiff's work, or a bona fide original compilation from other common or independent sources.*" Page 793.

"The change of costume of the fencing figures, in the case before Lord Ellenborough, was treated as a mere evasion." Page 794.

"To amount to an infringement, it is not necessary that there should be a complete copy or imitation in use throughout; but only that there should be an important and valuable portion, which operates injuriously to the copyright of the plaintiff." Page 795.

He quotes Lord Eldon, as saying:

"If a man mixes what belongs to him with what belongs to me, and the mixture be forbidden by the law, he must again separate them, and he must bear all the mischief and loss which the separation may occasion. If an individual chooses in any work to mix my literary matter with his own, he must be restrained from publishing the literary matter which belongs to me; and if the parts of the work cannot be separated, and if by that means the injunction, which restrained the publication of my literary matter, prevents also the publication of his own literary matter, he has only himself to blame." Page 796.

"It has been said that, to amount to piracy [infringement] the work must be a copy, and not an imitation. That, as a general proposition, *cannot be admitted.* It is true the imitation may be very slight and shadowy. But, on the other

hand, it may be very close, *and so close as to be a mere evasion of the copyright*, although not an exact and literal copy." Page 797.

"If it substantially includes the essential parts of the plaintiff's plan, of his arrangement, examples, and tables, *so as to supersede* the work of the plaintiff, it is a violation of his copyright." Page 797.

13. In the case of *Webb, et al, vs. Powers, et al*, Judge Woodbury said :

"The leading inquiry then arises, which is decisive of the general equities between these parties, whether the book of the defendant's taken as a whole, is substantially a copy of the plaintiff's? whether it has virtually the same plan and character throughout, and is intended to supersede the other in the market with the same class of readers and purchasers, by introducing no considerable new matter, or little or nothing new, except colorable deviations."—2 *Woodbury & Minot's Circuit Court R.*, page 514.

THOMAS DREW *vs.* JOHN M. CLARK.

ARGUMENT FOR PETITIONER.

The alleged contempt for which the petitioner was condemned consisted in his refusal *to be sworn* before a committee of the legislature; not in his refusal to answer questions after he had been sworn, but in his refusal *to be sworn*.

His objection to being sworn did not arise from any conscientious scruples as to taking an oath; nor from any fear of criminating himself; nor from any objection whatever to testifying before a committee of the legislature; nor from any objection to testifying in regard to any subject-matter whatever which the legislature has authority to investigate by *compulsory* testimony. He concedes fully that, if *anybody* could be *compelled* to be sworn in this case, he could be. Nor does he now seek to draw in question the right of the legislature to investigate any subject they please, by merely *voluntary* testimony. He only questions the *extent* of their power to investigate by *compulsory* testimony.

His whole objection to being sworn, in the present case, rested simply upon the fact that it did not appear from any papers furnished to him, nor from any authority or information legally in his possession, that the *subject-matter* of the investigation was one which the legislature had authority to investigate by *compulsory* testimony.

We suppose the rule is imperative everywhere, in the judicial tribunals as well as before committees of the legislature, that, before a person can be required to be sworn, he is entitled, if he desires it, to be informed of the *subject-matter* in regard to which he is to testify, in order that he may judge whether he can take the oath with a conscientious intention to fulfil it. We suppose that no one can be required to swear blindly; that is, that no one can be required to swear to testify, without knowing what he is to testify about. Such a requirement and such an oath would be absurd as well as immoral, because they would involve the taking of an oath which he not only *might not* conscientiously intend to fulfil, but which he even *could not* conscientiously fulfil.

If, then, a person has a right, before he is sworn, to know the subject-matter in regard to which he is to testify, he has the further right to judge, *at his peril of course*, whether that subject-matter be one in regard to which he can lawfully be compelled to testify. If the subject-matter be one in regard to which he *may* lawfully be compelled to testify, and he refuses to be sworn, he must take the consequences. But, if the subject-matter be one in regard to which he could *not* lawfully be compelled to testify, he stands justified in his refusal *even to be sworn*. He cannot be required to take an oath which he will be under no obligation to fulfil after he has taken it. He cannot be required to swear that he will testify, either fully or partially, in regard to a particular subject-matter, when he cannot lawfully be required to testify *to anything at all in regard to it*.

If, for example, a man cannot lawfully be required to give the legislature any information at all as to what he and his family usually eat at breakfast, dinner and supper, he cannot lawfully be required to swear that he will give them any such information. It would be manifestly absurd and immoral for them to require him to swear, and for him to swear, that he would give them any such information at all on this subject, when they could not afterwards lawfully require him to fulfil his oath, and when he had no intention of fulfilling it.

To require him to be sworn in such a case is equivalent to requiring him to swear falsely.

The ground taken by the Senate, as all their proceedings show, is, that, in the case just supposed, he could lawfully be required to take the oath that he would give them this information in regard to breakfast, dinner and supper, even though he could not afterwards be required to give it.

The position of the Senate is really this,—that they have a right to compel a man to take as many oaths as they can invent and propound to him, even though they have not the right to compel him to fulfil one of them.

The Senate absurdly require that a man shall *first* surrender his conscience wholly into their keeping, so far as to take all the oaths they may proffer him. When he has done that,—when he has acknowledged their authority over his conscience to *the extent of making him take the oath*,—they may then perhaps from choice, or they may be compelled by law, to give back to him his conscience, and say to him, “You may now do as you please about fulfilling these oaths. The law does not require you to fulfil them; but it did require you to take them.”

Placed in the best possible light, the position of the Senate is this,—that they will compel him *to be sworn*, while they wholly ignore and postpone the question whether he will be under any obligation to testify after he has been sworn.

The position of the prisoner, on the other hand, is this,—that inasmuch as the subject-matter is, on the face of it, one in regard to which he cannot lawfully be required to give any testimony at all, he cannot lawfully be required to swear that he will give any.

This case may be illustrated by another. Suppose a man were required to be sworn to give testimony in a trial of his wife for murder; and he should object that his being sworn could be of no avail, inasmuch as he could not be required to testify after he had so sworn. Must not the court, before insisting that he be sworn, decide whether he could be required to testify after he has been sworn? And, if they decide that he could not be required to testify, must they not then excuse him from being sworn? Clearly so.

The whole object of the law, in requiring the oath, is to get true and lawful testimony. If the law does not require the testimony, it would be absurd to say that it required the oath.

Where the law does not require a man to give his testimony, it is mere senseless, useless, brutal tyranny to require him to be sworn.

It is just as easy for any tribunal to decide, before a man is sworn, whether he can be required to testify, as it is to decide it afterwards.

Suppose a judicial court should summons a man before them as a witness, and then, instead of requiring him to swear that he will testify to all he knows in the case of John Doe *vs.* Richard Roe, or the case of the Commonwealth *vs.* John Smith, should require him to swear that he will testify to all he knows about the Chinese Embassy, the approaching Ecumenical Council, the Alabama claims, the revolution in Spain, the war in Crete, the rebellion in Cuba, the late eruption of Vesuvius, the late earthquakes in South America, and the war in Japan; and suppose he should object that the court had no jurisdiction of those matters, and therefore could not require him to testify to anything at all in regard to them,—would it be the right of the court to say: “We now require you only to swear that you will testify on these subjects; after you shall have done that, we will consider and decide whether we have the further right to compel you to fulfil your oath?” Clearly the court must first decide

whether he can be required to testify on those subjects; and if he cannot be required to testify, he cannot be required to swear that he will.

We hold, then, the following propositions to be demonstrated, viz. :—

1. That the law can, in no case whatever, require a man to be sworn until he is legally informed of the subject-matter in regard to which he is to be sworn.

2. That a man cannot lawfully be required to take any oath that he cannot lawfully be required to fulfil.

3. That a man cannot lawfully be compelled to be sworn before any tribunal that has no lawful authority to investigate, by *compulsory* testimony, the particular subject-matter in regard to which he is to be sworn.

From the preceding propositions it necessarily follows, that, before any person can be compelled to be sworn before a committee of the legislature, he must have *legal notice* that the subject-matter, in regard to which he is to be sworn, is one which the legislature has a right to investigate by means of *compulsory* testimony; that it is not competent for the legislature to compel a person to be sworn in a case in which they would have no authority to require him to testify after he was sworn.

In this case, the prisoner claims that he had no legal information that the subject-matter, in regard to which he was required to testify was one which the legislature had any authority to investigate by *compulsory* testimony. The only legal information he had on this point was a certified copy of the following Order and summons, to wit:—

COMMONWEALTH OF MASSACHUSETTS.

IN SENATE, February 23, 1869.

Ordered, That the Joint Special Committee to inquire into charges of corruption against corporations, parties and persons, be authorized to send for persons and papers.

Sent down for concurrence.

S. N. GIFFORD, *Clerk*.

HOUSE OF REPRESENTATIVES, February 24, 1869.

Concurred.

W. S. ROBINSON, *Clerk*.

STATE HOUSE, BOSTON, April 7, 1860.

To Thomas Drew, of Newton, in the County of Middlesex :—

Pursuant to the above Order you are required to appear before the committee therein mentioned, at the State House in Boston, on Wednesday, the fourteenth day of April current, at nine o'clock, A. M., then and there to give evidence of what you know relating to the subject-matter of said investigation, and also have with you such papers, writings and documents, relating thereto, as may be in your possession.

By order of the Committee,

DANIEL NEEDHAM, *Chairman.*

A true copy.

Attest:

JOHN MORISSEY, *Sergeant-at-Arms.*

The petitioner claims that this Order, on the face of it, discloses no case which the legislature has a right to investigate by *compulsory* testimony.

It clearly shows no case that is within the *judicial* power of the legislature or of either branch of it,—that is to say, it is not a summons to testify in any case where the election or qualifications of a member of the House or Senate is to be settled; it is not a summons to testify in any case of impeachment; it is not a summons to testify in any case of the expulsion or punishment of a member of the House or Senate; it is not a summons to testify in any case of alleged contempt that had previously arisen, and which it was within the *judicial* power of the House or Senate to try and punish by virtue of the constitution, part second, chapter 1, section 8, articles 10 and 11, which are given in the note.*

* "The House of Representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the Constitution; shall choose their own speaker, appoint their own officers, and settle the rules and orders of proceeding in their own House. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of any disrespect to the House by any disorderly or contemptuous behavior in its presence; or who, in the town where the General Court is sitting, and during the time of its sitting, shall threaten to harm the body or estate of any of its members, for anything said or done in the House, or who shall assault any of them therefor; or who shall assault or arrest any witness or other person ordered to attend the House, in his way in going or returning; or who shall rescue any person arrested by order of the House.

"And no member of the House of Representatives shall be arrested or held to bail on mesne process, during his going into, returning from, or his attending, the General Assembly.

"XI. The Senate shall have the same powers in the like cases; and Governor and Council shall have the same authority to punish in like cases; provided that no imprisonment on the warrant or order of the Governor, Council, Senate, or House of Representatives, for either of the above described offences, be for a time exceeding thirty days.

"And the Senate and House of Representatives may try and determine all cases where their rights and privileges are concerned, and which, by the Constitution, they have authority to try and determine, by Committees of their own members, or in such other way as they may respectively think best."

Furthermore, this Order is not a summons to testify in regard to any matters or acts done in any State office or institution, as for example, the offices of the Secretary, Treasurer or Auditor, or the State Prison, the public jails, the lunatic asylum, the State almshouses, the Reform School, or any other public institution which is under the immediate control of the legislature.

The only remaining question, then, that can arise as to the legality of this Order, is, whether the legislature has power, by means of *compulsory* testimony, "to inquire into charges of corruption against corporations, parties and persons."

The petitioner says that these words utterly fail to present any case, in regard to which the legislature can *compel* any one to testify, either before the legislature itself, or any of its committees.

The words certainly cannot be said to present any *criminal* case on the part of either "corporations, parties or persons;" for, if by the word "corruption" was meant *legal criminality*, it is clear that the case—not being within the special judicial power given to the legislature, or either branch of it—could not lawfully be "inquired into" by the legislature, by means of compulsory testimony, but must go before the regular judicial tribunals: and it has the right to go there unembarrassed and unprejudiced by any investigations or disclosures on the part of the legislature.

If, then, it must be admitted that the word "corruption," as used in this Order, does not mean any *legal criminality*, it must be conceded to mean only some one or more other kinds of "corruption," as for example, moral, religious, political, or even physical "corruption." And inasmuch as it designates no one kind of "corruption," and designates no particular "corporations, parties or persons" that are suspected of it, the Order is, on the face of it, a mere wild, roving commission to search for anything and everything, physical, moral, religious and political, which the committee may see fit to designate by the term "corruption," on the part of any and all "corporations," such as colleges, academies and churches, as well as railroad, banking, insurance, manufacturing and mining "corporations," and also on the part of any and all "parties and persons," men, women and children, within the limits of the Commonwealth.

Under this commission, full inquisition, open or secret, could be made into the physical cleanliness or filthiness, the moral purity or impurity, the religious sincerity or hypocrisy, and the religious and political orthodoxy and heterodoxy, of every individual, and every association of individuals, in the Commonwealth.

No narrower limits than these can be assigned to the investigations of the Committee, if they can act under the Order at all. Don Quixote himself, in the height of his folly, never conceived of an enterprise so absurd and ridiculous as this inaugurated by the legislature of Massachusetts, if we are to take this Order as the exponent of their intentions.

Whether the legislature can carry on this illimitable inquiry, by means of merely *voluntary* testimony, the petitioner is not now concerned to inquire. But that they can carry it on by means of *compulsory* testimony, he denies. The Senate, on the other hand, insists that the legislature can not only make such inquiry, but also that they can even *compel* testimony for that purpose. And that is the issue that has been made up between the petitioner and the Senate, and is now before this court.

The constitution (Part II. Chap. 1, Sect. 1, Art. 4.) contains these words:—

“ And, further, full power and authority are hereby given and granted to the said General Court, from time to time, to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes and ordinances, directions and instructions, either with penalties or without; *so as the same be not repugnant or contrary to this Constitution*, as they shall judge to be for the good and welfare of this Commonwealth, and for the governing and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof,” etc., etc.

This legislative power would seem to be as ample as any reasonable body of legislators could desire. At any rate, it is the utmost that the people of Massachusetts have seen fit to give to their legislature; and if the legislature desire more power, they must ask the people to give them more, by an amendment to the constitution, instead of usurping it themselves.

The constitution, having given this liberal power to the legislature *in the making of laws*, has been explicit in declaring that the enforcement of these laws upon the people, and all questions as to whether these laws have been violated by the people, shall be determined by the judicial tribunals alone, (except in the few cases where special judicial power is given to the legislature, governor and council.)

And the petitioner insists that all that the constitution requires of the people is, that they shall obey these laws, as interpreted, sanctioned and enforced by the judiciary.

But if, in addition to all this power of making laws, and requiring obedience to them on the part of the people, the legislature can

institute inquisitions, either open, or (as in this case) secret, into the moral and religious character, either of the people generally, or of particular individuals, and can *compel* persons to come before these inquisitorial bodies, and tell everything they may know of their neighbors and fellow-citizens, which can be classed under so indefinite and comprehensive a term as "corruption," the same to be reported and spread abroad, under the sanction of the legislature, to damage the interests, blacken the reputations and destroy the happiness of persons charged with no violation of law, our government is a thoroughly infamous and detestable one,—such an one as no people could ever reasonably be presumed to have consented to, and such as no people ought to tolerate for a moment.

Such a power on the part of the legislature would be ample to open the floodgates of detraction and slander upon any and all whom the suspicion, prejudice, envy or malice of members of the legislature, or of those of whom they were the tools, might seek to destroy. And all this could be done under the protection of their legislative privileges. Both witnesses and legislators would be under this protection, and consequently free of all liability to answer before the judicial tribunals for their crimes.

If such really be the powers of our legislature, it is certain, though not remarkable, that we have never, *until now*, had a legislature that saw fit to exercise, or even to assert, these infamous powers with which they were intrusted. That these powers should now be asserted and insisted on, to the extent of sending a man to prison for refusing to become a tool of the legislature in this behalf, is, thank God, a phenomenon as rare as it is disgusting.

The petitioner, then, holds it clear that the legislature have no power, at least by means of *compulsory* testimony, to institute any *general* inquisition, either open or secret, into the physical, moral, religious and political purity or "corruption" of the people at large in this Commonwealth.

The only remaining question is, whether they have this right in regard to "corporations."

On this point the petitioner has only this to say, viz. :—

1. That a "corporation" is not a creature of the legislature, in any such sense as would give the legislature any *judicial* power over it. The legislature cannot possibly *get judicial* power over it by any bargain or contract for that purpose incorporated in its charter. If it could get this power by a bargain with a number of individuals, granting them privileges on that condition, it could get it over single individuals by the same means. It could get it over

every individual to whom they could offer sufficient inducements. And thus the judicial power, which is expressly denied to the legislature by the constitution, might nevertheless be wholly or partially acquired by it by means of contracts with individuals. And to that extent the constitution would be circumvented and nullified.

2. A corporation, as stated by the petitioner before the Senate, is necessarily only a number of citizens, having the same rights, and subject to the same liabilities, as other citizens, with only this difference, viz., that the legislature has granted them, and they have accepted, certain privileges, subject only to specific conditions. Whether they have violated these conditions, and incurred the penalties annexed to such violation, must always be a *judicial* question, which the legislature can no more try than it can try any other judicial question. And, if the legislature has no power to try any such question, it can *compel* no one to testify in regard to it.

3. If no violation of law be charged upon a corporation, but the legislature nevertheless contemplates amending or repealing its charter, or making new laws concerning it, in accordance with the discretionary power reserved by Revised Statutes, chap. 68, sect. 41, and desires to have its discretion enlightened as to the needful or appropriate legislation in this behalf, then the petitioner claims that the power thus reserved by the legislature is only the same as, *and a part of*, that general discretionary power which the legislature first exercised in granting the charter, and such as the legislature has in regard to any and all other subjects of legislation; and that the legislature, therefore, can no more *compel* a person to enlighten their discretion on the subject of amending or repealing the charters of "corporations," than it can *compel* him to enlighten their discretion on any other ordinary subject of legislation. It can certainly have no more power in regard to amending or repealing a charter than it had originally in granting it. And, as it had no power to *compel* testimony to enlighten their discretion as to granting the charter, it can have no power to *compel* testimony to enlighten their discretion as to amending or repealing it.

The legislature certainly cannot *compel* Agassiz to enlighten their discretion as to the legislation necessary or proper in regard to the culture of fish, merely because they propose to legislate upon that subject. Neither can it *compel* either a scientific or practical agriculturist to enlighten their discretion as to the expediency of a State agricultural college, merely because the legislature contemplate establishing such a college. If the legislature do not feel themselves competent, of their own knowledge, to legislate on the ordinary subjects of legislation, they must enlighten themselves

either by such information at other persons may freely and voluntarily give them, or such as can be obtained by offering proper rewards. They certainly cannot adopt the preposterous course of bringing against individuals the loose and indefinite charge of "corruption," and then, under color of investigating that charge, *compel* persons to come before them, and enlighten their general ignorance, and thus qualify them for their legislative duties. So infamous a proceeding can no more be resorted to, for the purpose of enlightening their discretion as to any general legislation relating to "corporations," than it can be to enlighten their discretion as to any general legislation relating to the people at large.

The petitioner has thus presented his case as he claims it must stand on the Order before quoted, for refusing to obey which he was tried, condemned and imprisoned; and as he therefore claims that it must stand before this court, whatever other testimony, of *a subsequent nature*, may be attempted to be brought into it.

That Order to appear before the Committee, and give evidence of what he knew relating simply to "charges of corruption against corporations, parties and persons," was the only *legal information* he had as to the subject-matter in regard to which he was required to be sworn.

On his first arraignment before the Senate, he asked for a certified copy of the other and original Order *under which the Committee was appointed*, which he informed the Senate he had never seen, and which he supposed might give him further light as to the subject-matter of the investigation, and consequently as to his duty, or not, to be sworn. He also asked for time in which to consult counsel, and ascertain his rights, all of which appears in the copy of his defence, among the papers now submitted to the court.

But less than twenty-four hours' time was granted him, and during that time no certified copy of the original Order was furnished him; and he never saw a certified copy of it until after he had been tried, condemned and imprisoned.

He therefore claims that that original Order cannot now be brought into the case under any circumstances whatever.

Even if the court should be of opinion that this original Order, under which the Committee was appointed, would have modified or did modify, the powers of the Committee, so as to give them a *legal* subject-matter of investigation; or, supposing it to have been seen by the petitioner, that it would have given him ample information of a *legal* subject-matter of investigation, and thus

have imposed upon him the duty of being sworn,—still he says that, inasmuch as he had never seen any certified copy of it, he cannot be said to have been legally informed of its contents, or consequently to have been under any obligation at all in regard to it, unless it were simply to request a certified copy of it, which he did, but was refused until it was too late to be used in his defence.

He therefore had no legal information as to the subject-matter of the investigation, except what was contained simply in the supplementary Order, already given, authorizing the Committee to send for persons and papers.

Since he has been in prison, he has been furnished with a certified copy of the original Order for raising the Committee. It is as follows:

COMMONWEALTH OF MASSACHUSETTS.

IN SENATE, Feb. 23, 1869.

Ordered, That a joint special committee, to consist of five members on the part of the House, with such as the Senate may join, be appointed to inquire if any railroad company, chartered by, and receiving aid from, this Commonwealth, has paid large sums of money, either to aid legislation in their behalf, or suppress legislation adverse to their corporate interests, and that such committee have power to send for persons and papers; and said committee is also further authorized to inquire if any other railroad company, or other corporation chartered here, or if any other party or person has, at any time, used any improper means or influence to aid or to suppress legislation.

It will be seen that this Order is in very different terms from the one in reference to which the petitioner was tried and condemned. But he nevertheless holds that it is equally futile with the other; that it utterly fails to set forth any *legal* subject-matter of *compulsory* investigation; and that it could have been no authority for the Committee to require him to be sworn, even if it had been produced.

This Order, it will be noticed, is in two parts. The first part is in these words:—

“*Ordered*, That a joint special committee, to consist of five members on the part of the House, with such as the Senate may join, be appointed to inquire if any railroad company, chartered by and receiving aid from this Commonwealth, has paid large sums of money, either to aid legislation in their behalf, or suppress legislation adverse to their corporate interests; and that such committee have power to send for persons and papers.”

This part of the Order, it will be seen, is not for an inquiry as to whether the money so paid "to aid legislation in their behalf, or suppress legislation adverse to their corporate interests," was paid for any *corrupt* purpose, or in any *corrupt* manner, whatever, *but only as to whether it was paid at all.*

If money has been paid at all for those purposes, it must certainly be presumed to have been paid honestly, at least until the contrary is either proved, or charged, or ordered to be inquired into.

Now, it is obvious that when a railroad corporation, like the Boston, Hartford and Erie, or the Troy and Greenfield, comes before the legislature to ask them to aid the corporation by the loan of millions of money or credit, it must not only be proper, but indispensably necessary, that they should spend "large sums of money" in collecting and arranging all the data necessary to enable the legislature to act with reasonable discretion in judging whether the loan would be a safe, judicious and proper one. Comprehensive and reliable data must be obtained as to the amount already expended on the road, the probable future cost of the road, the prospective business of the road, its relations to the interest of the Commonwealth, and the security the road can offer for the loan, before the legislature could reasonably be asked to loan a shilling, not to say millions, of the money or credit of the State. Does any one suppose that all these data can be procured and arranged, and properly presented to the legislature, otherwise than by the payment of "large sums of money"? Of course not. The simple fact that the legislature will even seriously entertain the question of making the loan, presupposes that "large sums of money" have been already "paid," in order to enlighten the discretion of the legislature on the subject.

Since, then, this *first part* of the Order does not even mention such a thing as an inquiry as to whether "large sums of money" have been paid *corruptly*, but only as to whether they *have been paid*, and as it must be presumed, at least until the contrary has been either proved, or charged, or ordered to be inquired into, that the money was paid honestly,—the prisoner holds that this *first part* of the Order presents no *legal* subject-matter for investigation by means of *compulsory* testimony. He holds that he—a person holding no office or employment under any railroad corporation, and holding no stock in any railroad corporation, and consequently not required by its charter to join in any report of its doings to the legislature—might as well be *compelled* to testify whether, to his knowledge, a railroad company had paid

large sums of money for running their road, for locomotives, for cars, for railroad iron, for wood or coal, or as compensation to their employees, as for aiding legislation in their favor. The whole inquiry is, on the face of it, absurd and ridiculous as a subject-matter for *compulsory* investigation, so long as the Order makes no charge, and directs no inquiry, as to whether the money was *corruptly* paid.

The same reasons will apply to the case of "large sums of money paid" by any railroad corporation "to suppress (or prevent) legislation adverse to its corporate interests."

Does the legislature suppose that a railroad corporation, like the "Western" (that was,) or the Boston and Albany (that is now,) is going to sit still, and see the State charter, or lend millions of money or credit to, rival roads, like the Troy and Greenfield, or the Boston, Hartford and Erie, without spending "large sums of money" to protect their "corporate interests" against such "adverse legislation?" And, so long as no charge is made, or inquiry ordered, as to whether this money is paid *corruptly*, have the legislature any more power to *compel* a stranger, having no concern in these roads, to testify to what he knows as to these expenditures, than they have to *compel* him to testify what he knows as to their expenditures for wood, coal, locomotives, railroad iron, or any of the other ordinary and proper expenses of a railroad? Clearly not.

The petitioner, therefore, holds it to be perfectly clear that, so long as the Order makes no charge, and directs no inquiry, as to whether any railroad corporation has expended any of its money *corruptly* for the purposes named, the Order presents no *legal* subject-matter for any *compulsory* testimony on the subject, and especially not for any *compulsory* testimony from one who is no officer or employee of, or stockholder in, the corporation, and consequently has no duty imposed upon him, by the charter, or other laws of the Commonwealth, in regard to making returns to the legislature as to the doings of the corporation.

But although he conceives it wholly unnecessary for him to do so, the petitioner goes still further, and claims that, even if this Order has made the charge, or directed the inquiry, as to whether money had been paid *corruptly*, he could not have been *compelled* to testify on the subject before a committee of the legislature; and for this reason, viz.: If such corrupt payment of money were in the nature of a criminal offence, under the laws of the Commonwealth,—such, for example, as bribing members of the legislature,—then he holds that the act of bribery could not have been done by the corporation in its corporate capacity (for a corporation cannot commit

a crime,) but must have been done by individuals in their private capacity; and that he could be *compelled* to testify in regard to it only before a judicial tribunal. But if, on the other hand, such payment, whether corrupt or not, was not a legal offence under the laws of the Commonwealth, then he holds that he can no more be *compelled* to testify in regard to such corrupt (but not criminal) payment of money, by a corporation, than he can be compelled to testify as to similar corrupt (but not criminal) payments of money by private persons.

And this is all he feels it necessary to say in regard to the *first branch* of this Order.

The *second branch* of this Order is in these words, viz. :—

“ And said committee is also further authorized to inquire if any other railroad company, or other corporation chartered here, or if any other party or person, has, *at any time*, used any *improper means or influence* to aid or suppress legislation.”

These terms, “*improper means or influence*,” are certainly very mild ones to be employed in describing any conduct that can be made the subject-matter of any *compulsory* investigation by the legislature. As the Order gives no definition of what it intends by the words, “*any improper means or influence*,” the petitioner is compelled to conclude that no *violation of law*, such as bribery, or illegal voting, is intended; for, if it were, the case could only be tried, either in another form, or before a judicial tribunal, and he could not be compelled to testify elsewhere or otherwise in regard to it.

Assuming, therefore, that no *violation of law* is directed by this branch of the Order to be inquired into, the petitioner is necessitated to infer that the Order intends only such *other* “improper means and influences,” as “corporations, parties and persons” may employ “to aid or suppress legislation;” as, for example, such “improper means and influences” (other than criminal) as “corporations, parties and persons” may employ to carry elections, to secure the election of this man who will favor their interests and wishes, and defeat the election of that man who will oppose their interests or wishes; and also such “improper means and influences” (other than criminal) as may be employed to influence members of the legislature in favor of, or against, this law or that, after they are elected.

Placing this construction upon this branch of the Order,—the only construction, he claims, that can reasonably be put upon it,—

he insists that it presents no *legal* subject-matter for any investigation by the Committee; at least by means of *compulsory* testimony.

From his own special acquaintance with politics and politicians, as well as from that general knowledge on the subject which is open to all, he has no manner of doubt that "improper," mean, selfish, jealous, tyrannical, ambitious, mercenary, and even malicious motives and influence are rife everywhere in promoting the election of this man, and opposing the election of that; and in this as well as in various other ways, aiding such legislation as individuals and corporations desire, and in suppressing (or preventing) such legislation as they oppose. He has never heard that the ballot-box was certain to purify men of their natural selfishness. On the contrary, the very nature of our institutions opens wide the door to the employment of "improper means and influences" in any and every possible degree short of crime. These means and influences abound in all parties, and with nearly or quite all individuals who have anything to do, either with electing men to the legislature, or with influencing legislation afterwards. So perfectly notorious is all this, that some very sensible persons suppose it to be hardly possible for a man even to touch politics anywhere (by way of participating in them) without being defiled. And, if such persons ever take part in them, they do so only on the principle of choosing the least between two or more enormous evils.

Nobody but a blockhead supposes politics to be pure. There is no reasonable doubt that "improper means and influences to aid or suppress legislation" entered into the election of every member of the present legislature, and have heretofore entered into the election of every member of every other legislature that has ever sat under our State Constitution. And now this (second) branch of this Order purports to authorize this Committee to inquire what "means and influences" of this kind have "*at any time,*" since the *foundation of this government*, been brought to bear on legislation!

The matter would be supremely farcical if the Senate had not shown its determination to push this investigation, even to the extent of sending men to prison for refusing to testify.

The whole inquiry is, on the face of it, to the last degree quixotic, absurd and ridiculous, considered as a *legal* subject-matter, in regard to which the legislature can *compel* the people to come before their committees, and testify as to their personal knowledge.

For these reasons, the petitioner claims that, even if he had been served with a certified copy of this Order, he would have been under no legal obligation to pay the least attention to it. But, inasmuch as he never saw a certified copy of it until he had

been tried, condemned and imprisoned, he claims that the Order itself can have nothing to do with the legality or illegality of his imprisonment, unless to show more fully even, if possible, than had been done before, how utterly baseless, in both law and reason, this whole proceeding against him has been, from first to last.

The petitioner claims that the principles laid down by this court, in the *first two paragraphs* of their opinion in the case of *Burnham vs. Morrissey* (14 Gray, 238,) are ample to entitle him to be discharged by this court.

Those paragraphs are in these words, to wit:—

“The House of Representatives is not the final judge of its own powers and privileges in cases in which the rights and liberties of the subject are concerned; but the legality of its action may be examined and determined by this court. That House is not the legislature, but only a part of it, and is therefore subject in its action to the laws, in common with all other bodies, officers and tribunals within the Commonwealth. Especially is it competent and proper for this court to consider whether its proceedings are in conformity with the Constitution and laws, because, living under a written constitution, no branch or department of the government is supreme; and it is the province and duty of the judicial department to determine, in cases regularly brought before them, whether the powers of any branch of the government, and even those of the legislature in the enactment of laws, have been exercised in conformity with the Constitution, and, if they have not been, to treat their acts as null and void.

“The House of Representatives has the power, under the Constitution, to imprison for contempt; but this power is limited to cases expressly provided for by the Constitution, or to cases where the power is necessarily implied from those constitutional functions and duties, to the performance of which it is essential. The power is directly conferred by the Constitution, chap. 1, sect. 3, arts. 10, 11; and the cases there enumerated are the only ones in which a sentence of imprisonment for a term extending beyond the session of the House can be imposed as a punishment.”

The only exception or suggestion he cares to offer, in regard to any portion of that opinion, is in regard to the meaning of certain language used by the court in the *fourth paragraph*, as follows:—

“The House of Representatives has many duties to perform which necessarily require it to receive evidence, and examine witnesses. . . . It may inquire into the doings of corporations which are subject to the control of the legislature, with a view to modify or repeal their charters. . . . It has often occasion to acquire a certain knowledge of facts, in order to the proper performance of legislative duties.”

What the court may have intended by this language is not clear. It is evidently mere *dicta*, not specially relating to the case then before them; for Burnham was a public officer, and the investigation was in regard to his official conduct. Such is not the case here; for the petitioner holds no office whatever.

If, in this language, the court meant to intimate that the legislature *might* have power to *compel* a man to come before them, and give them any and all information which he may possess, and which they may think would facilitate the performance of their *general* "legislative duties," either in regard to "corporations," or the people at large, the petitioner wholly objects, for the reasons already given, to any such power being conceded to the legislature.

He thinks the case is one that requires that a clear line should be drawn between those cases in which the legislature have, and those in which they have not, the right to *compel* testimony.

The petitioner utterly denies that the legislature has any general power to set up any standards whatever as to what is, or is not, "corruption," or as to what is, or is not, "improper," on the part of the people of this Commonwealth, otherwise than by enacting laws to be enforced by the judiciary. Until such standards are put into the form of statutes, they must necessarily be unknown and unknowable by the people. They must also necessarily be merely personal ideas in the minds of the members of the legislature, and as such entitled to no authority over, and no consideration or even cognizance by, the people. He also utterly denies the power of the legislature to compel him to become their instrument, to supply them with testimony, to be used by them for the purpose of defaming and injuring the people of the Commonwealth, on account of their not having conformed their conduct in all respects to these unknown and unknowable and merely personal ideas of the members of the legislature, on the infinite and indefinite subjects of purity and "corruption," of propriety and "impropriety."

A

NEW BANKING SYSTEM

THE

NEEDFUL CAPITAL FOR REBUILDING
THE BURNT DISTRICT.

BY LYSANDER SPOONER.

BOSTON:
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The reader will understand that the ideas presented in the following pages admit of a much more thorough demonstration than can be given in so small a space. Such demonstration, if it should be necessary, the author hopes to give at a future time.

Boston, March, 1873.

CHAPTER I.

A NEW BANKING SYSTEM.

Under the banking system—an outline of which is hereafter given—the real estate of Boston alone—taken at only three-fourths its value, as estimated by the State valuation*—is capable of furnishing three hundred millions of dollars of loanable capital.*

Under the same system, the real estate of Massachusetts—taken at only three-fourths its estimated value†—is capable of furnishing seven hundred and fifty millions of loanable capital.

The real estate of the Commonwealth, therefore, is capable of furnishing an amount of loanable capital more than twelve times as great as that of all the “*National*” Banks in the State‡; more than twice as great as that of all the “*National*” banks of the whole United States (\$353,917,470); and equal to the entire amount (\$750,000,000, or thereabouts) both of green-back and “*National*” bank currency of the United States.

* By the State valuation of May, 1871, the real estate of Boston is estimated at \$395,214,950.

† By the State valuation of May, 1871, the real estate of the Commonwealth is estimated at \$991,196,803.

‡ The amount of circulation now authorized by the present “*National*” banks of Massachusetts, is \$58,506,686, as appears by the recent report of the Comptroller of the Currency.

It is capable of furnishing loanable capital equal to one thousand dollars for every male and female person, of sixteen years of age and upwards, within the Commonwealth; or two thousand five hundred dollars for every male adult.

It would scarcely be extravagant to say that it is capable of furnishing ample capital for every deserving enterprise, and every deserving man and woman, within the State; and also for all such other enterprises in other parts of the United States, and in foreign commerce, as Massachusetts men might desire to engage in.

Unless the same system, or some equivalent one, should be adopted in other States, the capital thus furnished in this State, could be loaned at high interest at the West and the South.

If adopted here earlier than in other States, it would enable the citizens of this State to act as pioneers in the most lucrative enterprises that are to be found in other parts of the country.

All this capital is now lying dead, so far as being loaned is concerned.

All this capital can be loaned in the form of currency, if so much can be used.

All the profits of banking, under this system, would be clear profits, inasmuch as the use of the real estate as banking capital, would not interfere at all with its use for other purposes.

The use of this real estate as banking capital would break up all monopolies in banking, and in all other business depending upon bank loans. It would diffuse credit much more widely than it has ever been diffused. It would reduce interest to the lowest rates to which

free competition could reduce it. It would give immense activity and power to industrial and commercial enterprise. It would multiply machinery, and do far more to increase production than any other system of credit and currency that has ever been invented. And being furnished at low rates of interest, would secure to producers a much larger share of the proceeds of their labor, than they now receive.

All this capital can be brought into use as fast as the titles to real estate can be ascertained, and the necessary papers be printed.

Legally, the system (as the author claims, and is prepared to establish) stands upon the same principle as a patented machine; and is, therefore, already legalized by Congress; and cannot, unless by a breach of the public faith, any more be prohibited, *or taxed*, either by Congress or this State, than can the use of a patented machine.

Every dollar of the currency furnished by this system would have the same value in the market as a dollar of gold; or so nearly the same value that the difference would be a matter of no appreciable importance.

The system would, therefore, restore specie payments at once, by furnishing a great amount of currency, that would be equal in value to specie.

The system would not inflate prices above their true and natural value, relatively to specie; for no possible amount of paper currency, every dollar of which is equal in value to specie, *can* inflate prices above their true and natural value, relatively to specie.

Whenever, if ever, the paper should not buy as much in the market as specie, it would be returned to the banks for redemption, and thus taken out of circulation. So that no more could be kept in circulation than should be necessary for the purchase and sale of property at specie prices.

The system would not tend to drive specie out of the country; although very little of it would be needed by the banks. It would rather tend to bring specie into the country, because it would immensely increase our production. We should, therefore, have much more to sell, and much less to buy. This would always give a balance in our favor, which would have to be paid in specie.

It is, however, a matter of no practical importance whether the system would bring specie into the country, or drive it out; for the volume and value of the currency would be substantially unaffected either by the influx or efflux of specie. Consequently industry, trade, and prices would be undisturbed either by the presence or absence of specie. The currency would represent property that could not be exported; that would always be here; that would always have a value as fixed and well known as that of specie; that would always be many times more abundant than specie can ever be; and that could always be delivered (in the absence of specie) in redemption of the currency. These attributes of the currency would render all financial contractions, revulsions, and disorders forever impossible.

The following is

AN OUTLINE OF THE SYSTEM.

The principle of the system is that the currency shall represent an *invested* dollar, instead of a specie dollar.

The currency will, therefore, be redeemable by an *invested* dollar, except when redeemed by specie, or by being received in payment of debts due the banks.

The best capital will probably be mortgages and railroads; and these will very likely be the only capital which it will ever be expedient to use.

Inasmuch as railroads could not be used as capital, without a modification of their present charters, mortgages are probably the best capital that is immediately available.

Supposing mortgages to be the capital, they will be put into joint stock, held by trustees, and divided into shares of one hundred dollars each.

This stock may be called the **PRODUCTIVE STOCK**, and will be entitled to the dividends.

The dividends will consist of the interest on the mortgages, and the profits of banking.

The interest on the mortgages should be so high—say six or seven per cent—as to make the **PRODUCTIVE STOCK** worth ordinarily par of specie in the market, *independently of the profits of banking.*

Another kind of stock, which may be called *Circulating Stock*, will be created, *precisely equal in amount to the PRODUCTIVE STOCK*, and divided into shares of *one dollar each.*

This *Circulating Stock* will be represented by certificates, scrip, or bills, of various denominations, like

our present bank bills — that is, *representing one, two, three, five, ten, or more shares, of one dollar each.*

These certificates, scrip, or bills of the *Circulating Stock*, will be issued for circulation as currency, as our bank bills are now.

In law, this *Circulating Stock* will be in the nature of a lien on the PRODUCTIVE STOCK. It will be entitled to no dividends. Its value will consist, *first*, in its title to be received in payment of all dues to the bank; *second*, in its title to be redeemed, either in specie on demand, or in specie, with interest from the time of demand, before any dividends can be made to the bankers; and, *third*, in its title, when not redeemed with specie, to be redeemed (in sums of one hundred dollars each) by a transfer of a corresponding amount of the capital itself; that is, of the PRODUCTIVE STOCK.

The holders of the *Circulating Stock* are, therefore, sure, *first*, to be able to use it (if they have occasion to do so) in payment of their dues to the bank; *second*, to get, in exchange for it, either specie on demand, or specie, with interest from the time of demand; or, *third*, a share of the capital itself, the PRODUCTIVE STOCK; a stock worth par of specie in the market, and as merchantable as a share of railroad stock, or government stock, or any other stock whatever is now.

Whenever PRODUCTIVE STOCK shall have been transferred in redemption of *Circulating Stock*, it (the PRODUCTIVE STOCK) may be itself redeemed, or bought back, at pleasure, by the bankers, on their paying its face in specie, with interest (or dividends) from the time of the transfer; and *must* be so bought back, before any dividends can be paid to the original bankers.

The fulfilment of all these obligations, on the part of the bank, is secured by the fact that the capital and all the resources of the bank are in the hands of trustees, who are legally bound — before making any dividends to the bankers — to redeem all paper in the manner mentioned; and also to buy back all **PRODUCTIVE STOCK** that shall have been transferred in redemption of the circulation.

Such are the general principles of the system. The details are too numerous to be given here. They will be found in the “*Articles of Association of a Mortgage Stock Banking Company,*” which the author has drawn up and copyrighted.

CHAPTER II.

SPECIE PAYMENTS.

Although the banks, under this system, make no absolute promise to pay specie *on demand*, the system nevertheless affords a much better *practical* guaranty for specie payments, than the old specie paying system (so called); and for these reasons, viz :

1. The banks would be so universally solvent, and so universally known to be solvent, that no runs would ever be made upon them for specie, through fear of their insolvency. They could; therefore, maintain specie payments with much less amounts of specie, than the old specie paying banks (so called) could do.

2. As there would be no fears of the insolvency of the banks, and as the paper would be more convenient than specie for purposes of trade, bills would rarely be presented for redemption — otherwise than in payment of debts due the banks — except in those cases where the holders desired to invest their money; and would therefore *prefer* a transfer of PRODUCTIVE STOCK, to a payment in specie. If they wanted specie for exportation, they would buy it in the market (with the bills), as they would any other commodities for export.* It would, therefore, usually be only when they wanted an investment, and could find none so good as

* There would always be a plenty of specie for sale, in the seaports, as merchandise.

the PRODUCTIVE STOCK, that they would return their bills for redemption. And then they would return them, not really for the purpose of having them redeemed with specie, but in the hope of getting a transfer of PRODUCTIVE STOCK, and holding it awhile, and drawing interest on it.

3. The banks would probably find it for their interest, as promoting the circulation of their bills, to pay, at all times, such *small* amounts of specie, as the public convenience might require.

4. If there should be any suspensions of specie payments, they would be only temporary ones, by here and there a bank separately, and not by all the banks simultaneously, as under the so called specie paying system. No general public inconvenience would therefore ever be felt from that cause.

5. If the banks should rarely, or never, pay specie *on demand*, that fact would bring no discredit upon their bills, and be no obstacle to their circulation at par with specie. It would be known that—unless bad notes had been discounted—all the bills issued by the banks, would be wanted to pay the debts due the banks. This would ordinarily be sufficient, of itself, to keep the bills at par with specie. It would also be known that, if specie were not paid *on demand*, it would either be paid afterwards, with interest from the time of demand; or PRODUCTIVE STOCK, equal in value to specie in the market, would be transferred in redemption of the bills. The bills, therefore, would never depreciate in consequence of specie not being

paid *on demand*; nor would any contraction of the currency ever be occasioned on that account.

For the reasons now given, the system is practically the best specie paying system that was ever invented. That is to say, it would require less specie to work it; and also less to keep its bills always at par with specie. In proportion to the amount of currency it would furnish, it would not require so much as one dollar in specie, where the so called specie paying system would require a hundred. It would also, by immensely increasing our production and exports, do far more than any other system, towards bringing specie into the country, and preventing its exportation.

If it should be charged that the system supplies no specie for *exportation*; the answer is, that it is really no part of the legitimate business of a bank to furnish specie for exportation. Its legitimate business is simply to furnish credit and currency for home industry and trade. And it can never furnish these constantly, and in adequate amounts, unless it can be freed from the obligation to supply specie on demand for exportation. Specie should, therefore, always be merely an article of merchandise in the market, like any other; and should have no special — or, at least, no important — connection with the business of banking, except as furnishing the measure of value. If a paper currency is made payable in specie, *on demand*, very little of it can ever be issued, or kept in circulation; and that little will be so irregular and inconstant in amount as to cause continual and irremediable derangements.

But if a paper currency, instead of promising to pay specie *on demand*, promises only an alternative redemption, viz: specie on demand, or specie with interest from the time of demand, or other merchantable property of equal market value with specie—it can then be issued to an amount equal to such property; and yet keep its promises to the letter. It can, therefore, furnish all the credit and currency that can be needed; or at least many times more than the so called specie paying system ever did, or ever can, furnish. And then the interest, industry and trade of a nation will never be disturbed by the exportation of specie. And yet the standard of value will always be maintained.

The difference between the system here proposed, and the so called specie paying system—in respect to their respective capacities for furnishing credit and currency, and at the same time fulfilling their contracts to the letter—is as fifty to one, at the least, in favor of the former; probably much more than that.

Thus under the system now proposed, the real estate and railroads of the United States, at their present values, are capable of furnishing twenty thousand millions (\$20,000,000,000) of paper currency; and furnishing it constantly, and without fluctuation, and every dollar of it will have an equal market value with gold. The contracts or certificates comprising it, can always be fulfilled to the letter; that is, the capital itself, (the **PRODUCTIVE STOCK**,) represented by these certificates, can always be delivered, *on demand*, in redemption of the certificates, if the banks should be unable to redeem in specie.

On the other hand, it would be impossible to have so much as four hundred millions, (\$400,000,000) — one fiftieth of the amount before mentioned — of so called specie paying paper currency ; that is, a paper promising to pay specie *on demand* ; and constantly able to fulfil its obligations.

It is of no appreciable importance that a paper currency should be payable *on demand* with specie. It is sufficient, if it be payable *according to its terms, if only those terms are convenient and acceptable*. For then the value of the currency will be known, and its contracts will be fulfilled to the letter. And when these contracts are fulfilled to the letter, then, *to all practical purposes, specie payments are maintained*. When, for example, a man promises to pay wheat, either on demand, or at a time specified, and he fulfils that contract to the letter, that, *to all practical purposes, is specie payments* ; as much so as if the promise and payment had been made in coin. IT IS, THEREFORE, THE SPECIFIC AND LITERAL FULFILMENT OF CONTRACTS, THAT CONSTITUTES SPECIE PAYMENTS ; AND NOT THE PARTICULAR KIND OF PROPERTY THAT IS PROMISED AND PAID.

The great secret, then, of having an abundant paper currency, and yet maintaining all the while specie payments, consists in having the paper represent property — like real estate, for example — that exists in large amounts, and can always be delivered, on demand, in redemption of the paper ; and also in having this paper issued by the persons who actually own the property represented by it, and who can be compelled

by law to deliver it in redemption of the paper. And the great secret — if it be a secret — of having only a scanty currency, and of *not* having specie payments, consists in having the paper issued by a government that cannot fulfil its contracts, and has no intention of fulfilling them; and by banks that are not even required to fulfil them.

It is somewhat remarkable that after ten years experiment, we have not yet learned these apparently self-evident truths.

The palpable fact is that the advocates of the present “National” currency system, — that is, the stockholders in the present “National” banks, — *do not wish for specie payments*. They wish only to maintain, in their own hands, a monopoly of banking, and, as far as possible also, a monopoly of all business depending upon bank loans. They wish, therefore, to keep the volume of the currency down to its present amount. As an excuse for this, they profess a great desire for specie payments; and at the same time practice the imposture of declaring that specie payments will be impossible, if the amount of the currency be increased.

But all this is sheer falsehood and fraud. It is, of course, impossible to have specie payments, so long as the only currency issued is issued by a government that has nothing to redeem with, and has no intention of redeeming; and by banks that are not even required to redeem. But there is no obstacle to our having twenty times as much currency as we now have, and yet having specie payments — or the literal fulfilment

of contracts — if we will but suffer the business of banking to go into the hands of those who have property with which to redeem, and can be compelled by law to redeem.

It is with government paper, and bank paper, as it is with the paper of private persons ; that is, it is worth just what can be delivered in redemption of it, and no more. We all understand that the notes of the Astors, and Stewarts, and Vanderbilts, though issued by millions, and tens of millions, are really worth their nominal values. And why ? Solely because the makers of them have the property with which to redeem them in full, and can be made to redeem them in full. We also all understand that the notes of Sam Jones, and Jim Smith, and Bill Nokes, though issued for only five dollars, are not worth two cents on the dollar. And why ? Solely because they have nothing to pay with ; and cannot be made to pay.

Suppose, now, that these notes of Sam Jones, and Jim Smith, and Bill Nokes, for five dollars, were the only currency allowed by law ; and that they were worth in the market but two cents on the dollar. And suppose that the few holders of these notes, wishing to make the most of them, at the expense of the rights of everybody else, should keep up a constant howl for specie payments ; and should protest against any issue of the notes of the Astors, the Stewarts, and the Vanderbilts, upon the ground that such issue would inflate the currency, and postpone specie payments ! What would we think of men capable of uttering such ab-

surditities? Would we in charity to their weakness, call them idiots? or would we in justice to their villainy, denounce them as impostors and cheats of the most transcendent and amazing impudence? And what would we think of the wits of forty millions of people, who could be duped by such preposterous falsehoods?

And yet this is scarcely an exaggerated picture of the fraud that has been practiced upon the people for the last ten years. A few men have secured to themselves the monopoly of a few irredeemable notes; and not wishing to have any competition, either in the business of banking, or in any business depending upon bank loans, they cry out for specie payments; and declare that no *solvent* or *redeemable* notes must be put into circulation, in competition with their *insolvent* and *irredeemable* ones, lest the currency be inflated, and specie payments be postponed!

And this imposture is likely to be palmed off upon the people in the future, as it has been in the past, if they are such dunces as to permit it to be done.

It is perfectly evident, then, that specie payments — or the literal fulfilment of contracts — does not depend at all upon the amount of paper in circulation as currency; but solely upon the fact whether, on the one hand, it be issued by those who have property with which to redeem it, and can be made to redeem it; or whether, on the other hand, it be issued by those who cannot redeem it, and cannot be made to redeem it.

When the people shall understand these simple, manifest truths, they will soon put an end to the monopoly,

extortion, fraud, and tyranny of the existing “National” system.

The “National” system, so called, is, in reality, no national system at all; except in the mere facts that it is called the national system, and was established by the national government. It is, in truth, only a private system; a mere privilege conferred upon a few, to enable them to control prices, property, and labor; and thus to swindle, plunder, and oppress all the rest of the people.

CHAPTER III.

NO INFLATION OF PRICES.

SECTION 1.

In reality there is no such thing as an inflation of prices, relatively to gold. There is such a thing as a depreciated paper currency. That is to say, there is such a thing as a paper currency, that is called by the same names as gold — to wit, money, dollars, &c.— but that cannot be redeemed in full; and therefore has not the same value as gold. Such a currency does not circulate at its nominal, but only at its real, value. And when such a currency is in circulation, and prices are measured by it, instead of gold, they are said to be inflated, relatively to gold. But, in reality, the prices of property are not thereby inflated at all relatively to gold. It is only the measuring of prices by a currency, that is called by the same names as gold, but that is really inferior in value to gold, that causes the *apparent*, not *real*, inflation of prices, relatively to gold.

To measure prices by a currency that is called by the same names as gold, but that is really inferior in value to gold, and then—because those prices are nominally higher than gold prices—to say that they are inflated, relatively to gold, is a perfect absurdity.

If we were to call a foot measure a yard, and were then to say that all cloth measured by it became thereby stretched to three times its length, relatively to a true yard-stick, we should simply make ourselves ridiculous. We should not thereby prove that the foot measure had really stretched the cloth, but only that it had taxed our brains beyond their capacity.

It is only irredeemable paper — irredeemable in whole or in part, — that ever *appears* to inflate prices, relatively to gold. But that it really causes no inflation of prices, relatively to gold, is proved by the fact that it no more inflates the prices of other property, than it does the price of gold itself. Thus we say that irredeemable paper, that is worth but fifty cents on the dollar, inflates the prices of commodities in general to twice their real value. By this we mean, that they are inflated to twice their value relatively to gold. And why do we say this? Solely because it takes twice as many of these irredeemable paper dollars to buy any commodity, — a barrel of flour for example, — as it would if the paper were equal in value to gold. But it also takes twice as many of these irredeemable paper dollars to buy gold itself, as it would if the paper were equal in value to gold. There is, therefore, just as much reason for saying that the paper inflates the price of gold, as there is for saying that it inflates the price of flour. It inflates neither. It is, itself, worth but fifty cents on the dollar; and it, therefore, takes twice as much of it to buy either flour or gold, as it would if the paper were of equal value with gold.

The value of the coins — in any nation that is open to free commerce with the rest of the world — is fixed by their value in the markets of the world; and can neither be reduced below that value, in that nation, by any possible amount of paper currency, nor raised above that value, by the entire disuse of a paper currency. Any increase of the currency, therefore, by means of paper representing other property than the coins — but having an equal value with the coins — is an absolute *bona fide* increase of the currency to that extent; and not a mere depreciation of it, as so many are in the habit of asserting.

Practically and commercially speaking, a dollar is not necessarily a specific thing, made of silver, or gold, or any other single metal, or substance. *It is only such a quantum of market value as exists in a given piece of silver or gold.* And it is the same quantum of value, whether it exist in gold, silver, houses, lands, cattle, horses, wool, cotton, wheat, iron, coal, or any other commodity that men desire for use, and buy and sell in the market.

Every dollar's worth of vendible property in the world is equal in value to a dollar in gold. And if it were possible that every dollar's worth of such property, in the world, could be represented, in the market, by a contract on paper, promising to deliver it on demand; and if every dollar's worth could be delivered on demand, in redemption of the paper that represented it, the world could then have an amount of currency equal to the entire property of the world. And yet clearly every dollar of paper would be equal in value

to a dollar of gold; specie payments—or the literal fulfilment of contracts—could forever be maintained; and yet there could be no inflation of prices, relatively to gold. Such a currency would no more inflate the price of one thing, than of another. It would as much inflate the price of gold, as of any thing else. Gold would stand at its true and natural value as a metal; and all other things would also stand at their true and natural values, for their respective uses.

On this principle, if every dollar's worth of vendible property in the United States could be represented by a paper currency; and if the property could all be delivered on demand, in redemption of the paper, such a currency would not inflate the prices of property at all, relatively to gold. Gold would still stand at its true and natural value as a metal, or at its value in the markets of the world. And all the property represented by the paper, would simply be measured by the gold, and would stand at its true and natural value, relatively to the gold.

We could then have some thirty thousand millions (\$30,000,000,) of paper currency,—taking our property at its present valuation. And yet every dollar of it would be equal to a dollar of gold; and there could evidently be no inflation of prices, relatively to gold. No more of the currency could be kept in circulation, than should be necessary or convenient for the purchase and sale of property at specie prices.

It is probably not practicable to represent the entire property of the country by such contracts on paper as

would be convenient and acceptable as a currency. This is especially true of the *personal* property; although large portions even of this are being constantly represented by such contracts as bank notes, private promissory notes, checks, drafts, and bills of exchange; all of which are in the nature of currency; that is, they serve for the time as a substitute for specie; although some of them do not acquire any extensive, or even general, circulation.

But that it is perfectly practicable to represent nearly all the *real estate* of the country—including the railroads—by such contracts on paper as will be perfectly convenient and acceptable as a currency; and that every dollar of it can be kept always at par with specie throughout the entire country—that all this is perfectly practicable, the author offers the system already presented in proof.

SECTION 2.

To sustain their theory, that an abundant paper currency—though equal in value to gold—inflates prices, relatively to gold, its advocates assert that, *for the time being*, the paper depreciates the gold itself below its true value; or at least below that value which it had before the paper was introduced. But this is an impossibility; for in a country open to free commerce with the rest of the world, gold must always have the same value that it has in the markets of the world; neither more, nor less. No possible amount of

paper can reduce it below that value; as has been abundantly demonstrated in this country for the last ten years. Neither can any possible amount of paper currency reduce gold below its only true and natural value, viz.: its value as a metal, for uses in the arts. The paper cannot reduce the gold below this value, because the paper does not come at all in competition with it for those uses. We cannot make a watch, a spoon, or a necklace, out of the paper; and therefore the paper cannot compete with the gold for these uses.

That gold and silver now have, and can be made to have, no higher value, as a currency, than they have as metals for uses in the arts, is proved by the fact that doubtless not more than one tenth, and very likely not more than a twentieth, of all the gold and silver in the world (out of the mines), is in circulation as currency. In Asia, where these metals have been accumulating from time immemorial, and whither all the gold and silver of Europe and America — except what is caught up, and converted into plate, jewelry, &c.— is now going, and has been going for the last two thousand years, very little is in circulation as money. For the common traffic of the people, coins made of coarser metals, shells, and other things of little value, are the only currency. It is only for the larger commercial transactions, that gold and silver are used at all as a currency. The great bulk of these metals are used for plate, jewelry, for embellishing temples and palaces. Large amounts are also hoarded.

But that gold and silver coins now stand, and that they can be made to stand, as currency, only at their

true and natural values as metals, for uses in the arts ; and that neither the use, nor disuse, of any possible amount of paper currency, in any one country — the United States, for example — can sensibly affect their values in that country, or raise them above, or reduce them below, their values in the markets of the world, the author hopes to demonstrate more fully at a future time, if it should be necessary to do so.

SECTION 3.

Another argument — or rather assertion — of those who say that any increase of the currency, by means of paper — though the paper be equal in value to gold — depreciates the value of the gold, or inflates prices relatively to gold, is this : They assert that, where no other circumstances intervene to affect the prices of particular commodities, such increase of the currency raises the prices of *all* kinds of property — relatively to gold — in a degree precisely corresponding with the increase of the currency.

This is the universal assertion of those who oppose a *solvent* paper currency ; or a paper currency that is equal in value to gold.

But the assertion itself is wholly *untrue*. It is wholly *untrue* that an abundant paper currency — that is equal in value to gold — raises the prices of *all* commodities — relatively to gold — in a proportion corresponding to the increase of the currency. *Instead of doing so, it causes a rise only in agricultural commodities, and real estate; while it causes a great fall in the prices of manufactures generally.*

Thus the increased currency produces a *directly opposite effect* upon the prices of agricultural commodities and real estate, on the one hand, and upon manufactures, on the other.

The reasons are these :

Agriculture requires but very few exchanges, and can, therefore, be carried on with very little money. Manufactures, on the other hand, require a great many exchanges, and can, therefore, be carried on (except in a very feeble way), only by the aid of a great deal of money.

The consequence is, that the people of all those nations, that have but little money, are engaged mostly in agriculture. Very few of them are manufacturers. Being mostly engaged in agriculture, each one producing the same commodities with nearly all the others; and each one producing all he wants for his own consumption, there is no market, or very little market, for agricultural commodities; and such commodities, consequently, bear only a very small price.

Manufactured commodities, on the other hand, are very scarce and dear, for the sole reason that so few persons are engaged in producing them.

But let there be an increase of currency, and laborers at once leave agriculture, and become manufacturers.

As manufactured commodities usually bring much higher prices than agricultural, in proportion to the labor it costs to produce them, men usually leave agriculture, and go into manufacturing, to the full extent the increased currency will allow.

The consequence is that, under an abundant currency, manufactures become various, abundant, and cheap; where before they were scarce and dear.

But while, on the one hand, manufactures are thus becoming various, abundant, and cheap, agricultural commodities, on the other hand, are rising: and why? Not because the currency is depreciated, but simply because so many persons, who before — under a scanty currency — were engaged in agriculture, and produced all the agricultural commodities they needed, and perhaps more than they needed, for their own consumption, having now left agriculture, and become manufacturers, have become purchasers and consumers, instead of producers, of agricultural commodities.

Here the same cause — abundant currency — that has occasioned a *rise* in the prices of agricultural commodities, has produced a *directly opposite effect* upon manufactures. It has made the latter various, abundant, and cheap; where before they were scarce and dear.

On the other hand, when the currency contracts, manufacturing industry is in a great degree stopped; and the persons engaged in it are driven to agriculture as their only means of sustaining life. The consequence is, that manufactured commodities become scarce and dear, from non-production. At the same time, agricultural commodities become superabundant and cheap, from over-production and want of a market.

Thus an abundant currency, and a scanty currency, produce directly opposite effects upon the prices of

agricultural commodities, on the one hand, and manufactures, on the other.

The *abundant* currency makes manufactures various, abundant, and cheap, from increased production ; while it raises the prices of agricultural commodities, by withdrawing laborers from the production of them, and also by creating a body of purchasers and consumers, to wit, the manufacturers.

On the other hand, a *scanty* currency drives men from manufactures into agriculture, and thus causes manufactures to become scarce and dear, from non-production ; and, at the same time, causes agricultural commodities to fall in price, from over-production, and want of a market.

But whether, on the one hand, agricultural commodities are rising, and manufactured commodities are falling, under an abundant currency ; or whether, on the other hand, manufactured commodities are rising, and agricultural commodities are falling, under a scanty currency, the value of the currency itself, dollar for dollar, remains the same in both cases.

The value of the currency, in either of these cases, is fixed, not at all by the amount in circulation, but by its value relatively to gold. And the value of gold, in any particular country, is fixed by its value as a metal, and its value in the markets of the world ; and not at all by any greater or less quantity of paper that may be in circulation in that country.

SECTION 4.

But it is not alone agricultural *products* that rise in price under an abundant currency. Real estate also, of all kinds — agricultural, manufacturing, and commercial — rises under an abundant currency, and falls under a scanty currency. The reasons are these :

Agricultural real estate rises under an abundant currency, because agricultural products rise under such a currency, as already explained. *Manufacturing* real estate rises under an abundant currency, simply because — money being the great instrumentality of manufacturing industry — that industry is active and profitable under an abundant currency. *Commercial* real estate rises under an abundant currency, because, under such a currency, commerce, the exchange and distribution of agricultural and manufactured commodities, is active and profitable. *Railroads*, also, rise under an abundant currency, because, under such a currency, the transportation of freight and passengers is increased.

On the other hand, all kinds of real estate fall in price under a scanty currency, for these reasons, to wit: Agricultural real estate falls, because, manufactures having been in a great measure stopped, and the manufacturers driven into agriculture, there is little market for agricultural products, and those products bring only a small price. Manufacturing real estate falls, because, manufacturing industry having become impossible for lack of money, manufacturing real estate is lying dead, or unproductive. Commercial real estate falls, because

commerce, the exchange and distribution of agricultural and manufactured commodities, has ceased. Railroads fall in price, because, owing to the suspension of manufactures and commerce, there is little transportation of either freight or passengers.

Thus it will be seen that an abundant currency creates a great rise in agricultural products, and in all kinds of real estate — agricultural, manufacturing, and commercial, (including railroads); and, at the same time, causes manufactured commodities to become various, abundant, and cheap. While, on the other hand, a scanty currency causes agricultural commodities, and all kinds of real estate, to fall in price; and, at the same time, makes manufactured commodities scarce and dear.

It is a particularly noticeable fact, that those who claim that an abundant paper currency inflates the prices of *all* commodities, relatively to gold, never find it convenient to speak of the variety, abundance, and cheapness of manufactures, that exist under an abundant currency; but only of the high prices of agricultural commodities, and real estate.

The whole subject of prices — a subject that is very little understood, and that has been forever misrepresented, in order to justify restraints upon the currency, and keep it in a few hands — deserves a more extensive discussion; but the special purposes of this pamphlet do not admit of it here. But enough has probably now been said, to show that the great changes that take place in prices, under an abundant currency, on

the one hand, and a scanty currency, on the other, are not occasioned at all by any change in the value of the currency itself—dollar for dollar—provided the currency be equal in value to coin.

Enough, also, it is hoped, has been said, to show to all holders of either agricultural, manufacturing, or commercial real estate (including railroads), that the greater or less value of their property depends almost wholly upon the abundance or scarcity of currency; and that, inasmuch as, under the system proposed, they have the power, in their own hands, of creating probably all the currency that can possibly be used in manufactures and commerce, they have no one but themselves to blame, if they suffer the value of their property to be destroyed by any such narrow and tyrannical systems of currency and credit as those that now prevail, or those that have always heretofore prevailed.

By using their real estate as banking capital, they can not only get an income from it, in the shape of interest on money, but by supplying capital to mechanics and merchants, they create a large class who will pay high prices for agricultural products, and high prices and rents for manufacturing and commercial real estate; and who will also supply them, in return, with manufactured commodities of the greatest variety, abundance, and cheapness.

It is, therefore, mere suicide for the holders of real estate, who have the power of supplying an indefinite amount of capital for mechanics and merchants—and

who can make themselves and everybody else rich by supplying it—to suffer that power to be usurped by any such small body of men as those who now monopolize it, through mere favoritism, corruption, and tyranny, on the part of the government, and not because they have any claim to it.

CHAPTER IV.

SECURITY OF THE SYSTEM.

Supposing the property mortgaged to be ample, the system, as a system, is absolutely secure. The currency would be absolutely incapable of insolvency; for there could never be a dollar of the currency in circulation, without a dollar of capital (Productive Stock) in bank, which *must* be transferred in redemption of it, unless redemption be made in specie.

The capital *alone*, be it observed — independently of the notes discounted — must always be sufficient to redeem the entire circulation; for the circulation can never exceed the capital (Productive Stock). But the notes discounted are also holden by the trustees, and the proceeds of them must be applied to the redemption of the circulation. Supposing, therefore, the capital to be sufficient, and the notes discounted to be solvent, the redemption of the circulation is doubly secured.

What guarantee, then, have the public, for the sufficiency of the mortgages? They have these, viz.:

1. The mortgages, composing the capital of a bank, will be matters of public record, and everybody, *in the neighborhood*, will have the means of judging for himself of the sufficiency of the property holden. If the

property should be insufficient, the bank would be discredited at once; for the abundance of solvent currency would be so great, that no one would have any inducement to take that which was insolvent or doubtful.

2. By the Articles of Association, all the mortgages that make up the capital of a bank, are made mutually responsible for each other; because, if any one mortgage proves insufficient, no dividend can afterwards be paid to any of the bankers (mortgagors), until that deficiency shall have been made good by the company. The effect of this provision will be, to make all the founders of a bank look carefully to the sufficiency of each other's mortgages; because no man will be willing to put in a good mortgage of his own, on equal terms with a bad mortgage of another man's, when he knows that his own mortgage will have to contribute to making good any deficiency of the other. The result will be, that the mortgages, that go to make up the capital of any one bank, *will be either all good, or all bad*. If they are *all good*, the solvency of the bank will be apparent to all *in the vicinity*; and the credit of the bank will at once be established *at home*. If the mortgages are *all bad*, that fact, also, will be apparent to everybody *in the vicinity*, and the bank is at once discredited *at home*.

From the foregoing considerations, it is evident that nothing is easier than for a *good* bank to establish its credit, *at home*; and that nothing is more certain than that a *bad* bank would be discredited, *at home*, from the outset, and could get no circulation at all.

It is also evident that a bank, that has no credit at home, could get none abroad. There is, therefore, no danger of the public being swindled by bad banks.

A bank that is well founded, and that has established its credit at home, has so many ways of establishing its credit abroad, that there is no need that they be all specified here. The mode that seems most likely to be adopted, is the following, viz. :

When the capital shall consist of mortgages, it will be very easy for all the banks, in any one State, to make their solvency known *to each other*. There would be so many banks, that some *system* would naturally be adopted for this purpose.

Perhaps this system would be, that a standing committee, appointed by the banks, would be established in each State, to whom each bank in the State would be required to produce satisfactory evidence of its solvency, before its bills should be received by the other banks of the State.

When the banks, or any considerable number of the banks, of any particular State — Massachusetts, for instance, — shall have made themselves so far acquainted with each other's solvency, as to be ready to receive each other's bills, they will be ready to make a still further arrangement for their mutual benefit, viz: To unite in establishing one general agency in Boston, another in New York, and others in Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, New Orleans, San Francisco, &c., &c., where the bills of all these Massachusetts banks would be redeemed, either

from a common fund contributed for the purpose, or in such other way as might be found best. And thus the bills of all the Massachusetts banks would be placed at par at all the great commercial points.

Each bank, belonging to the association, might print on the back of its bills, "*Redeemable at the Massachusetts Agencies in Boston, New York, Philadelphia, &c.*"

In this way, all the banks of each State might unite to establish a joint agency in every large city, throughout the country, for the redemption of all their bills. In doing so, they would not only certify, but make themselves responsible for, the solvency of each other's bills.

The banks might safely make *permanent* arrangements of this kind with each other; because the *permanent* solvency of all the banks might be relied on.

The permanent solvency of all the banks might be relied on, because, under this system, a bank (whose capital consists of mortgages), once solvent, is necessarily forever solvent, unless in contingencies so utterly improbable as not to need to be taken into account. In fact, in the ordinary course of things, every bank would be growing more and more solvent; because, in the ordinary course of things, the mortgaged property would be constantly rising in value, as the wealth and population of the country should increase. The exceptions to this rule would be so rare as to be unworthy of notice.

There is, therefore, no difficulty in putting the currency, furnished by each State, at par throughout the United States.

At the general agencies, in the great cities, the redemption would, doubtless, *so far as necessary*, be made in specie, *on demand*; because, at such points, especially in cities on the sea-board, there would always be an abundance of specie in the market as merchandise; and it would, therefore, be both for the convenience and interest of the banks to redeem in specie, on demand, rather than transfer a portion of their capital, and then pay interest on that capital until it should be redeemed, or bought back, with specie.

Often, however, and very likely even in the great majority of cases, a man from one State — as California, for example, — presenting Massachusetts bills for redemption at a Massachusetts agency — either in Boston, New York, or elsewhere — would prefer to have them redeemed with bills from his own State, California, rather than with specie.

If the system were adopted throughout the United States, the banks of each State would be likely to have agencies of this kind in all the great cities. Each of these agencies would exchange the bills of every other State for the bills of its own State; and thus the bills of each State would find their way home, without any demand for their redemption in specie having ever been made.

Where railroads were used as capital, all the banks in the United States could form one association, of the kind just mentioned, to establish agencies at all the great commercial points, for the redemption of their bills.

Of course each railroad would receive the bills of all other roads, for fare and freight.

Thus all railroad currency, under this system, would be put at par throughout the United States.

CHAPTER V.

THE SYSTEM AS A CREDIT SYSTEM.

SECTION 1.

Perhaps the merits of the system, as a credit system, cannot be better illustrated than by comparing the amount of loanable capital it is capable of supplying, with the amount which the present "National" banks (so called) are capable of supplying.

If we thus compare the two systems, we shall find that the former is capable of supplying more than fifty times as much credit as the latter.

Thus the entire circulation authorized by all the "National" banks,* is but three hundred and fifty-four millions of dollars (\$354,000,000).

But the real estate and railroads of the country are probably worth twenty thousand millions of dollars (\$20,000,000,000). This latter sum is fifty-six times greater than the former; and is all capable of being loaned in the form of currency.

Calling the population of the country forty millions (40,000,000), the "National" system is capable of supplying not quite *nine* dollars (\$9) of loanable cap-

* Exclusive of the so called "gold" banks, which are too few to be worthy of notice.

ital to each individual of the whole population. The system proposed is capable of supplying five hundred dollars (\$500) of loanable capital to each individual of the whole population.

Supposing one half the population (male and female) to be sixteen years of age and upwards, and to be capable of producing wealth, and to need capital for their industry, the "National" system would furnish not quite eighteen dollars (\$18) for each one of them, on an average. The other system is capable of furnishing one thousand dollars (\$1,000) for each one of them, on an average.

Supposing the adults (both male and female) of the country to be sixteen millions (16,000,000), the "National" system is capable of furnishing only twenty-two dollars and twelve and a half cents (\$22.12½) to each one of these persons, on an average. The system proposed is capable of furnishing twelve hundred and fifty dollars (\$1,250) to each one, on an average.

Supposing the number of *male* adults in the whole country to be eight millions (8,000,000), the "National" system is capable of furnishing only forty-four dollars and twenty-five cents (\$44.25) to each one. The other system is capable of furnishing twenty-five hundred dollars (\$2,500) to each one.

The present number of "National" banks is little less than two thousand (2,000). Calling the number two thousand (2,000), and supposing the \$354,000,000 of circulation to be equally divided between them, each bank would be authorized to issue \$177,000.

Under the proposed system, the real estate and railroads of the country are capable of furnishing one hundred thousand (100,000) banks, having each a capital of two hundred thousand dollars (\$200,000); or it is capable of furnishing one hundred and twelve thousand nine hundred and ninety-four (112,994) banks, having each a capital (\$177,000), equal, on an average, to the capital of the present "National" banks. That is, this system is capable of furnishing fifty-six times as many banks as the "National" system, having each the same capital, on an average, as the "National" banks.

Calling the number of the present "National" banks two thousand (2,000), and the population of the country forty millions (40,000,000), there is only one bank to 20,000 people, on an average; each bank being authorized to issue, on an average, a circulation of \$177,000.

Under the proposed system, we could have one bank for every five hundred (500) persons; each bank being authorized to issue \$200,000; or \$23,000 each more than the "National" banks.

These figures give some idea of the comparative capacity of the two systems to furnish credit.

Under which of these two systems, now, would everybody, who needs credit, and deserves it, be most likely to get it? And to get all he needs to make his industry most productive? And to get it at the lowest rates of interest?

The proposed system is as much superior to the old specie paying system (so called)—in respect to the

amount of loanable capital it is capable of supplying— as it is to the present “National” system.

SECTION 2.

But the proposed system has one other feature, which is likely to be of great practical importance, and which gives it a still further superiority — as a credit system — over the so-called specie paying system. It is this :

The old specie paying system (so called) could add to the loanable capital of the country, *only by so much currency as it could keep in circulation, over and above the amount of specie that it was necessary to keep on hand for its redemption.* But the amount of loanable capital which the proposed system can supply, hardly depends at all upon the amount of its currency that can be kept in circulation. It can supply about the same amount of loanable capital, even though its currency should be returned for redemption immediately after it is issued. It can do this, because the banks, *by paying interest on the currency returned for redemption* — or, what is the same thing, by paying dividends on the PRODUCTIVE STOCK transferred in redemption of the currency — can postpone the payment of specie to such time as it shall be convenient for them to pay it.

All that would be necessary to make loans practicable on this basis, would be, that the banks should receive a higher rate of interest on their loans than they would have to pay on the currency returned for

redemption; that is, on the PRODUCTIVE STOCK transferred in redemption of the currency.

The rate of interest *received* by the banks, on the loans made by them, would need to be so much higher than that *paid* by them, on currency returned for redemption, as to make it an object for them to loan more of their currency than could be kept in circulation. Subject to this condition, the banks could loan their entire capitals, whether much or little of it could be kept in circulation.

For example, suppose the banks should pay *six* per cent. interest on currency returned for redemption—(or as dividends on the PRODUCTIVE STOCK transferred in redemption of such currency)—they could then loan their currency at *nine* per cent. and still make *three* per cent. profits, even though the currency loaned should come back for redemption immediately after it was issued.

But this is not all. Even though the banks should *pay*, on currency returned for redemption, precisely the same rate of interest they *received* on loans—say *six* per cent.—they could still do business, if their currency should, on an average, continue in circulation *one half the time for which it was loaned*; for then the banks would get three per cent. net on their loans, and this would make their business a paying one.

But the banks would probably do much better than this; for bank credits would supersede all private credits; and the diversity and amount of production would be so great that an immense amount of currency

would be constantly required to make the necessary exchanges. And whatever amount should be necessary for making these exchanges, would, of course, remain in circulation. However much currency, therefore, should be issued, it is probable that, on an average, it would remain in circulation more than half the time for which it was loaned.

Or if the banks should pay *six* per cent. interest on currency returned for redemption; and should then loan money, for *six* months, at *eight* per cent. interest; and this currency should remain in circulation but one month; the banks would then get eight per cent. for the one month, and two per cent. net for the other five months; which would be equal to three per cent. for the whole six months. Or if the currency should remain in circulation two months, the banks would then get eight per cent. for the two months, and two per cent. net for the other four months; which would be equal to four per cent. for the whole six months. Or if the currency should remain in circulation three months, the banks would then get eight per cent. for three months, and two per cent. net for the other three months; which would be equal to five per cent. for the whole six months. Or if the currency should remain in circulation four months, the banks would then get eight per cent. for the four months, and two per cent. net for the other two months; which would be equal to six per cent. for the whole six months. Or if the currency should remain in circulation five months, the banks would then get eight per cent. for the five

months, and two per cent. net for the other month; which would be equal to seven per cent. for the whole six months.

The banks would soon ascertain, by experiment, how long their currency was likely to remain in circulation; and what rate of interest it was therefore necessary for them to charge to make their business a paying one. And that rate, whatever it might be, the borrowers would have to pay. Subject to this condition, the banks could always loan their entire capitals.

CHAPTER VI.

AMOUNT OF CURRENCY NEEDED.

It is of no use to say that we do not need so much currency as the proposed system would supply ; because, first, if we should not need it, we shall not use it. Every dollar of paper will represent specific property that can be delivered on demand in redemption of it, and that will have the same market value as gold. The paper dollar, therefore, will have the same market value as the gold dollar, or as a dollar's worth of any other property ; and no one will part with it, unless he gets in exchange for it something that will serve his particular wants better ; and no one will accept it, unless it will serve his particular wants better than the thing he parts with. No more paper, therefore, can circulate, than is wanted for the purchase and sale of commodities at their true and natural values, as measured by gold.

Secondly, we do not know at all how much currency we do need. That is something that can be determined only by experiment. We know that, heretofore, whenever currency has been increased, industry and traffic have increased to a corresponding extent. And they would unquestionably increase to an extent far beyond any thing the world has ever seen, if only

they were aided and permitted by an adequate currency.

We, as yet, know very little what wealth mankind are capable of creating. It is only within a hundred years, or a little more, that any considerable portion of them have really begun to invent machinery, and learned that it is only by machinery that they can create any considerable wealth. But they have not yet learned—at least, they profess not to have learned—that money is indispensable to the practical employment of machinery; that it is as impossible to operate machinery without money, as it is to operate it without wind, water, or steam. When they shall have learned, and practically accepted, this great fact, and shall have provided themselves with money, wealth will speedily become universal. And it is only those who would deplore such a result, or those who are too stupid to see the palpable and necessary connection between money and manufacturing industry, who resist the indefinite increase of money.

It is scarcely a more patent fact that land is the indispensable capital for agricultural industry, than it is that money is the indispensable capital for manufacturing industry. Practically, everybody recognizes this fact, and virtually acknowledges it; although, in words, so many deny it. Men as deliberately and accurately calculate the amount of machinery that a hundred dollars in money will operate, as they do the amount of machinery that a ton of coal, or a given amount of water, will operate. They calculate much

more accurately the amount of manufactured goods a hundred dollars will produce, than they do the amount of grain, grass, or vegetables an acre of land will produce. They no more expect to see mechanics carrying on business for themselves without money, than they do to see agricultural laborers carrying on farming without land, or than they do to see sailors going to sea without ships. They know that all mechanical, as well as agricultural, laborers, who have not the appropriate capital for their special business, must necessarily stand idle, or become mere wage-laborers for others, at such particular employments as the latter may dictate, and at such prices as the latter may see fit to pay.

All these things attest the perfect knowledge that men have, that a money capital is indispensable to manufacturing industry; whatever assertions they may make to the contrary.

They know, therefore, that prohibitions upon money are prohibitions upon industry itself; that there can be no such thing as freedom of industry, where there is not freedom to lend and hire capital for such industry.

Every one knows, too — who knows any thing at all on such a subject — that it is, intrinsically, as flagrant a tyranny, as flagrant a violation of 'men's natural rights, for a government to forbid the lending and hiring of money for manufacturing industry, as it is to forbid the lending and hiring of land, or agricultural implements, for agricultural industry, or the lending

and hiring of ships for maritime industry. They know that it is as flagrant a tyranny, as flagrant a violation of men's natural rights, to forbid one man to lend another money for mechanical industry, as it would be to forbid the former to lend the latter a house to live in, a shop to work in, or tools to work with.

It is, therefore, a flagrant, manifest tyranny, a flagrant, manifest violation of men's natural rights, to lay any conditions or restrictions whatever upon the business of banking—that is, upon the lending and hiring of money—except such as are laid upon all other transactions between man and man, viz.: the fulfilment of contracts, and restraints upon force and fraud.

A man who is without capital, and who, by prohibitions upon banking, is practically forbidden to hire any, is in a condition elevated but one degree above that of a chattel slave. He may live; but he can live only as the servant of others; compelled to perform such labor, and to perform it at such prices, as they may see fit to dictate. And a government, which, at this day, subjects the great body of the people—or even any portion of them—to this condition, is as fit an object of popular retribution as any tyranny that ever existed.

To deprive mankind of their natural right and power of creating wealth for themselves, is as great a tyranny as it is to rob them of it after they have created it. And this is done by all laws against honest banking.

All these things are so self-evident, so universally known, that no man, of ordinary mental capacity, can

claim to be ignorant of them. And any legislator, who disregards them, should be taught, by a discipline short, sharp, and decisive, that his power is wholly subordinate to the natural rights of mankind.

It is, then, one of man's indisputable, natural rights to lend and hire capital in any and every form and manner that is intrinsically honest. And as money, or currency, is the great, the indispensable instrumentality in the production and distribution of wealth; as it is the capital, the motive power, that sets all other instrumentalities in motion; as it is the one thing, without which all the other great agencies of production — such as science, skill, and machinery — are practically paralyzed; to say that we need no more of it, and shall have no more of it, than we now have, is to say that we need no more wealth, and shall have no more wealth, and no more equal or equitable distribution of wealth, than we now have. It is to say that the mass of mankind — the laborers, the producers of wealth — need not to produce, and shall not be permitted to produce, wealth for themselves, but only for others.

For a government to limit the currency of a people, and to designate the individuals (or corporations) who shall have the control of that currency, is, manifestly, equivalent to saying there shall be but so much industry and wealth in the nation, and that these shall be under the special control, and for the special enjoyment, of the individuals designated; and, of course, that all other persons shall be simply their dependants and servants; receiving only such prices for their prop-

erty, and such compensation for their labor, as these few holders of the currency shall see fit to give for them.

The effect of these prohibitions upon money, and consequently upon industry, are everywhere apparent in the poverty of the great body of the people.

At the present time, the people of this country certainly do not produce one third, very likely not one fifth, of the wealth they might produce. And the little they do produce is all in the hands of a few. All this is attributable to the want of currency and credit, and to the consequent want of science, skill, machinery, and working capital.

Of the twenty million persons, male and female, of sixteen years of age and upwards—capable of producing wealth—certainly not one in five has the science, skill, implements, machinery, and capital necessary to make his or her industry most effective; or to secure to himself or herself the greatest share in the products of his or her own industry. A very large proportion of these persons—nearly all the females, and a great majority of the males—persons capable of running machinery, and of producing each three, five, or ten dollars of wealth per day, are now without science, skill, machinery, or capital, and are either producing nothing, or working only with such inferior means, and at such inferior employments, as to make their industry of scarcely any value at all, either to themselves or others, beyond the provision of the coarsest necessaries of a hard and coarse existence.

And this is all owing to the lack of money ; or rather to the lack of money and credit.

There are, doubtless, in the country, ten million (10,000,000) persons, male and female — sixteen years of age and upwards — who are naturally capable of creating from three to five dollars of wealth per day, if they had the science, skill, machinery, and capital which they ought to have, and might have ; but who, from the want of these, are now creating not more than one dollar each per day, on an average ; thus occasioning a loss to themselves and the country of from twenty to forty millions of dollars per day, for three hundred days in a year ; a sum equal to from six to twelve thousand millions per annum ; or three to six times the amount of our entire national debt.

And there are another ten million of persons — better supplied, indeed, with capital, machinery, &c., than the ten million before mentioned — but who, nevertheless, from the same causes, are producing far less than they might.

The aggregate loss to the country, from these causes, is, doubtless, equal to from ten to fifteen thousand millions per year ; or five, six, or seven times the amount of the entire national debt.

In this estimate no account is taken of the loss suffered from our inability — owing simply to a want of money — to bring to this country, and give employment to, the millions of laborers, in Europe and Asia, who desire to come here, and add the products of their labor to our national wealth.

It is, probably, no more than a reasonable estimate to suppose that the nation, as a nation, is losing twenty thousand millions of dollars (\$20,000,000,000) per annum — about ten times the amount of our national debt — solely for the want of money to give such employment as they need, to the population we now have, and to those who desire to come here from other countries.

Among the losses we suffer, from the causes mentioned, the non-production of new inventions is by no means the least. As a general rule, new inventions are made only where money and machinery prevail. And they are generally produced in a ratio corresponding with the amount of money and machinery. In no part of the country are the new inventions equal in number to what they ought to be, and might be. In three fourths of the country very few are produced. In some, almost none at all. The losses from this cause cannot be estimated in money.

The government, in its ignorance, arrogance, and tyranny, either does not see all this, or, seeing it, does not regard it. While these thousands of millions are being lost annually, from the suppression of money, and consequently of industry, and while three fourths of the laborers of the country are either standing idle, or, for the want of capital, are producing only a mere fraction of what they might produce, a two-pence-ha'penny Secretary of the Treasury can find no better employment for his faculties, than in trying, first, to reduce the rate of interest on the public debt one per

cent.—thereby saving twenty millions a year, *or fifty cents for each person, on an average!* And, secondly, in paying one hundred millions per annum of the principal; that is, *two and a half dollars for each person, on an average!* And he insists that the only way to achieve these astounding results, is to deprive the people at large of money! To destroy, as far as possible, their industry! To deprive them, as far as possible, of all power to manufacture for themselves! And to compel them to pay, to the few manufacturers it has under its protection, fifty or one hundred per cent. more for their manufactures than they are worth!

He has been tugging at this tremendous task four years, or thereabouts. And he confidently believes that if he can be permitted to enforce this plan for a sufficient period of years, in the future, he will ultimately be able to save the people, annually, *fifty cents each, on an average, in interest!* and also continue to pay, annually, *two dollars and a half for each person, on an average,* of the principal, of the national debt!

He apparently does not know, or, if he knows, it is, in his eyes, a matter of comparatively small moment, that this saving of \$20,000,000 per annum in interest, and this payment of \$100,000,000 per annum of principal, which he proposes to make on behalf of the people, are not equal to what *two days*—or perhaps even *one day*—of their industry would amount to, if they were permitted to enjoy their natural rights of lending and hiring capital, and producing such wealth as they please for themselves.

He apparently does not know, or, if he knows, it is with him a small matter, that if the people were permitted to enjoy their natural freedom in currency and credit, and consequently their natural freedom in industry, they could pay the entire national debt three, four, or a half dozen times over *every year*, more easily than they can save the \$20,000,000, and pay the \$100,000,000, annually, by the process that he adopts for saving and paying them.

And yet this man, and his policy, represent the government and its policy. The president keeps him in office, and Congress sustain him in his measures.

In short, the government not only does not offer, but is apparently determined not to suffer, any such thing as freedom in currency and credit, or, consequently, in industry. It is, apparently, so bent upon compelling the people to give more for its few irredeemable notes than they are worth; and so bent upon keeping all wealth, and all means of wealth, in the hands of the few — upon whose money and frauds it relies for support — that it is determined, if possible, to perpetuate this state of things indefinitely. And it will probably succeed in perpetuating it indefinitely — under cover of such false pretences as those of specie payments, inflation of prices, reducing the interest, and paying the principal, of the national debt, &c. — unless the people at large shall open their eyes to the deceit and robbery that are practised upon them; and, by establishing

freedom in currency and credit — and thereby freedom in industry and commerce — end at once and forever the tyranny that impoverishes and enslaves them.

CHAPTER VII.

IMPORTANCE OF THE SYSTEM TO MASSACHUSETTS.

SECTION I.

The tariffs, by means of which a few monied men of Massachusetts have so long plundered the rest of the country, and on which they have so largely relied for their prosperity, will not much longer be endured. The nation at large has no need of tariffs. Money is the great instrumentality for manufacturing. And the nation needs nothing but an ample supply of money — in addition to its natural advantages — to enable our people to manufacture for themselves much more cheaply than any other people can manufacture for us.

To say nothing of the many millions who, if we had the money necessary to give them employment, might be brought here from Europe and Asia, and employed in manufactures, more than half the productive power of our present population — in the South and West much more than half — is utterly lost for the want of money, and the consequent want of science, skill, and machinery. And yet those few, who monopolize the present stock of money, insist that they must have tariffs to enable them to manufacture at all. And the nation is duped by these false pretences.

To give bounties to encourage manufactures, and at the same time forbid all but a favored few to have money to manufacture with, is just as absurd as it would be to give bounties to encourage manufactures, and at the same time forbid all but a favored few to have machinery of any kind to manufacture with. It is just as absurd as it would be to give bounties to encourage agriculture, and at the same time forbid all but a favored few to own land, or have cattle, horses, seed corn, seed wheat, or agricultural implements. It is just as absurd as it would be to give bounties to encourage navigation, and at the same time forbid all but a favored few to have ships.

The whole object of such absurdities and tyrannies is to commit the double wrong of depriving the mass of the people of all power to manufacture for themselves, and at the same time compel them to pay extortionate prices to the favored few who are permitted to manufacture.

When tariffs shall be abolished, Massachusetts will have no means of increasing her prosperity, nor even of perpetuating such poor prosperity as she now has,* except by a great increase of money; such an increase of money as will enable her skilled laborers and enterprising young men to get capital for such industries and enterprises as they may prefer to engage in here, rather than go elsewhere.

Even if Massachusetts were willing to manufacture

* I say "poor prosperity," because the present prosperity of Massachusetts is not only a dishonest prosperity, but is also only the prosperity of the few, and not of the many.

for the South and West, *without a tariff*, she could hope to do so only until the South and West should supply themselves with money. So soon as they shall supply themselves with money, they will be able to manufacture for themselves more cheaply than Massachusetts can manufacture for them. Their natural advantages for manufacturing are greatly superior to those of Massachusetts. They have the cheap food, coal, iron, lead, copper, wool, cotton, hides, &c., &c. They lack only money to avail themselves of these advantages. And, under the system proposed, their lands and railroads are capable of supplying all the money they need. And they will soon adopt that, or some other system. And they will then not only be independent of Massachusetts, but will be able to draw away from her her skilled laborers, and enterprising young men, unless she shall first supply them with the money capital necessary for such industries and enterprises as may induce them to remain. They will, of course, go where they can get capital, instead of staying where they can get none.

So great are the natural advantages of the South and West over those of Massachusetts, that it is doubtful how many of these men can be persuaded to remain, by all the inducements that capital can offer. But without such inducements it is certain they will all go.

And Massachusetts has no means of supplying this needed money, except by using her real estate as banking capital.

It is, therefore, plainly a matter of life or death to the holders of real estate in Massachusetts to use it for that purpose ; for their real estate will be worth nothing when the skilled labor and the enterprising young men of Massachusetts shall have deserted her.

All this is so manifest as to need no further demonstration. And Massachusetts will do well to look the facts in the face before it is too late.

SECTION 2.

What prospect has Massachusetts under the present "National" system ?

The Comptroller of the Currency, in his last annual report, says, that of the \$354,000,000 of circulation authorized by law, Massachusetts has now \$58,506,686. He says, further, that this is more than four times as much as she would be entitled to, if the currency were apportioned equally among the States, according to population ; more than twice as much as she would be entitled to, if the circulation were apportioned among the States, according to their wealth ; and three times as much as she is entitled to upon an apportionment made — as apportionments are now professedly made — half upon population, and half upon wealth.

The Comptroller further says, that a law of Congress, passed July 12, 1870, requiring him to withdraw circulation from those States having more than their just proportion, and to distribute it among those now having less than their just proportion, will require him to

withdraw "from thirty-six banks in the City of Boston, \$11,403,000; [and] from fifty-three country banks of Massachusetts, \$2,997,000."

Thus the law requires \$14,400,000 to be withdrawn from the present banks of Massachusetts.

When this shall have been done, she will have but \$44,106,686 left. And as this will be more than three times her just proportion on a basis of population, and nearly twice her just share on a basis of wealth, there is no knowing how soon the remaining excess over her just share may be withdrawn.*

By the census of 1870, Massachusetts had a population of 1,457,351. She has now, doubtless, a population of 1,500,000. Calling her population 1,500,000, the \$58,506,686 of circulation which she now has, is equal to \$39 for each person, on an average. When \$14,400,000 of this amount shall have been withdrawn, as the law now requires it to be, the circulation will be reduced to less than \$30 for each person, on an average. If the circulation should be reduced to the proportion to which Massachusetts is entitled, on the basis of wealth—that is, to \$25,098,600—she will then have less than \$17 for each person, on an average. If the circulation should be reduced to the proportion to which Massachusetts is entitled on a basis of population—that is to \$13,879,778—she will then have a trifle less than \$9 for each person, on an average.

For years the industry of Massachusetts has been

* If the excess mentioned in the text should not be withdrawn, it will be only because the system is so villainous in itself, that other parts of the country will not accept the shares to which they are entitled.

greatly crippled for the want of bank credits, although her banks have been authorized to issue their notes to the amount of \$58,506,686; or \$39 to each person, on an average. What will her industry be when her banks shall be authorized to issue only \$44,106,686, or \$30 for each person, on an average? What will it be, if her bank issues shall be reduced to her proportion on a basis of wealth, to wit, \$25,098,600; or less than \$17 for each person, on an average? Or what will it be, if her bank circulation shall be reduced to her proportion on a basis of population, to wit, to \$13,379,778; or less than \$9 for each person, on an average?

In contrast with such contemptible sums as these, Massachusetts, under the system proposed, could have nine hundred millions (\$900,000,000) of bank loans;* that is, \$600 for every man, woman, and child, on an average; or \$1,500 to each adult, male and female, on an average; or \$3,000 to each *male* adult, on an average.

Which, now, of these two systems is most likely to secure and increase the prosperity of Massachusetts? Which is most likely to give to every deserving man and woman in the State, the capital necessary to make their industry most productive to themselves individually, and to the State? Which system is most likely to induce the skilled laborers and enterprising young men of Massachusetts to remain here? And which is most likely to drive them away?

* Since the notes on page fifth were printed, the *Boston Journal*, of Jan. 11, 1873, says that, by the valuation of 1872, the real estate of Massachusetts is \$1,131,306,347.

SECTION 3.

But the whole is not yet told. The present "National" system is so burdened with taxes and other onerous conditions, that no banking at all can be done under it, except at rates of interest that are two or three times as high as they ought to be; or as they would be under the system proposed.

The burdens imposed on the present banks are probably equal to from six to eight per cent. *upon the amount of their own notes that they are permitted to issue.*

In the first place, they are required, for every \$90 of circulation, to invest \$100 in five or six per cent. government bonds.* This alone is a great burden to all that class of persons who want their capital for active business. It amounts to actual prohibition upon all whose property is in real estate, and therefore not convertible into bonds. And this is a purely tyrannical provision, inasmuch as real estate is a much safer and better capital than the bonds. Let us call this a burden of *two per cent. on their circulation.*

Next, is the risk as to the permanent value of the bonds. Any war, civil or foreign, would cause them to

* At first they were required to invest only in six per cent. bonds. But more recently they have been coerced or "persuaded" to invest sixty-five millions (\$65,000,000) in five per cent. bonds. And very lately it has been announced that "The Comptroller of the Currency will not hereafter change United States bonds, deposited as security for circulating notes of national banks, except upon condition of substituting the new five per cents. of the loan of July 14, 1870, and January 20, 1872." — *Boston Daily Advertiser of February 5, 1873.*

From this it is evident that all the banks are to be "persuaded" into investing their capitals in five per cent. bonds.

drop in value, as the frost causes the mercury to drop in the thermometer. Even any danger of war would at once reduce them in value. Let us call this risk another burden of *one per cent. on the circulation.*

Next, every bank in seventeen or eighteen of the largest cities — Boston among the number — are required to keep on hand, at all times, a reserve — *in dead capital* (legal tenders) — “equal to at least twenty-five per centum,” and all other banks a similar reserve “equal to at least fifteen per centum,” “of the aggregate amount of their *notes in circulation, and of their deposits.*”

Doubtless, two thirds — very likely three fourths — of all the bank circulation and deposits are in the seventeen cities named. And as these city banks are required to keep a reserve of dead capital equal to twenty-five per cent., and all others a similar reserve equal to fifteen per cent., *both on their circulation and deposits*, this average burden on all the banks is, doubtless, equal to *two per cent. on their circulation.*

Next, the banks are required to pay to the United States an annual tax of one per cent. on their average circulation, and half of one per cent. on the amount of their deposits.

Here is another burden equal to at least *one and a half per cent. on their circulation.*

Then the capitals of the banks — the United States bonds — are made liable to State taxes to any extent, “not at a greater rate than is assessed upon the monied capital in the hands of individual citizens of such

State.” This tax is probably equal to *one per cent. on their circulation.*

Here, then, are taxes and burdens equal to *seven and a half per cent. on their circulation.*

Next, the banks are required to make at least *five* reports annually, to the Comptroller of the Currency, of their “resources and liabilities.” Also reports of “the amount of each dividend declared by the association.”

Then, too, the banks are restricted as to the rates of interest they are permitted to take.

Then “Congress may at any time alter, amend, or repeal this act;” and thus impose upon the banks still further taxes, conditions, restrictions, returns, and reports. Or it may at pleasure abolish the banks altogether.

All these taxes, burdens, and liabilities, cannot be reckoned at less than *eight or nine per cent. on the circulation of the banks*; a sum two or three times as great as the rate of interest ought to be; and two or three times as great as it would be under the system proposed.

And yet the banks must submit to all these burdens as a condition of being permitted to loan money at all. And they must make up — in their rates of interest — for all these burdens. Under this system, therefore, the rate of interest must always be two or three times as high as it ought to be.

The objections to the system, then, are, first, that it furnishes very little loanable capital; and, second, that

it necessarily raises the interest on that little to two or three times what it ought to be.

Such a system, obviously, could not be endured at all, but for these reasons, viz.: first, that, being a monopoly, those holding it are enabled to make enormous extortions upon borrowers; and, secondly, that these borrowers — most of whom are the bankers themselves — employ the money in the manufacture and sale of goods that are protected, by tariffs, from foreign competition, and for which they are thus enabled to get, say, fifty per cent. more than they are worth.

In this way, these bank extortions and tariff extortions are thrown ultimately upon the people who consume the goods which the bank capital is employed in producing and selling.

Thus the joint effect of the bank system and the tariff is, first, to deprive the mass of the people of the money capital that would enable them to manufacture for themselves; and, secondly, to compel them to pay extortionate prices for the few manufactures that are produced.

Under the system proposed, all these things would be done away. The West and the South, that are now relied on to pay all these extortions, would manufacture for themselves. Their lands and railroads would enable them to supply all the manufacturing capital that could be used. And they could supply it at one half, or one third, the rates now required by the “National” banks. Of course, Massachusetts could not —

under the "National" system — manufacture a dollar's worth for the South and West. She could not keep her manufacturing laborers. They would all go where they could get cheap capital, cheap supplies, and good markets. And then the manufacturing industry of Massachusetts, and with it the value of her real estate, will have perished from the natural and legitimate effect of her meanness, extortion, and tyranny.

Looking to the future, then, there is no State in the Union — certainly none outside of New England — that has a greater interest in supplying her mechanics with the greatest possible amount of capital; or in supplying it at the lowest possible rates of interest. And this can be done only by using her real estate as banking capital.

CHAPTER VIII.

THE TRUE CHARACTER OF THE "NATIONAL" SYSTEM.

SECTION 1.

Under the "National" system there are less than 2,000 banks. But let us call them 2,000.

Calling the population of the country forty millions, there is but one bank to 20,000 people.

And this one bank is, *in law*, a person; and only a single person. In lending money, it acts, and can act, only as a unit. Its several stockholders cannot act separately, as so many individuals, in lending money.

So far, therefore, as this system is concerned, *there is but one money lender for twenty thousand people!*

Of these 20,000 people, ten thousand (male and female) are sixteen years of age and upwards, capable of creating wealth, and requiring capital to make their labor most productive.

Yet, so far as this system is concerned, there is but one person authorized to lend money to, or for, these ten thousand, who wish to borrow.

And this one money lender is one who, proverbially "has no soul." It is not a natural human being. It is a legal, an artificial, and not a natural, person. It is neither masculine nor feminine. It has not the ordin-

ary human sympathies, and is not influenced by the ordinary human motives of action. It is no father, who might wish to lend money to his children, to start them in life. It is no neighbor, who might wish to assist his neighbor. It is no citizen, who might wish to promote the public welfare. It is simply a nondescript, created by law, that wants money, and nothing else.

Moreover, it has only \$177,000 to lend to these 10,000 borrowers; *that is, a fraction less than \$18, on an average, for each one!*

What chance of borrowing capital have these ten thousand persons, who are forbidden to borrow, except from this one soulless person, who has so little to lend?

If money lenders must be soulless — as, perhaps, to some extent, they must be — it is certainly of the utmost importance that there be so many of them, and that they may have so much money to lend, as that they may be necessitated, by their own selfishness, to compete with each other, and thus save the borrowers from their extortions.

But the “National” system says, not only that the money lender shall be a soulless person, and one having only a little money to lend, but that he shall also have the whole field — a field of 10,000 borrowers — entirely to himself!

It says that this soulless person shall have this whole field to himself, notwithstanding he has so little money to lend, and notwithstanding there are many other persons standing by, having, in the aggregate, fifty times

as much money to lend as he ; and desiring to lend it at one half, or one third, the rates he is demanding, and extorting !

It says, too, that he shall have this whole field to himself, notwithstanding that ninety-nine one-hundredths of those who desire to borrow, are sent away empty ! and are thereby condemned — so far as such a system can condemn them — to inevitable poverty !

SECTION 2.

But further. Each one of these 2,000 legal, or artificial, persons, who alone are permitted to *lend* money, is made up of, say, fifty actual, or natural, persons, to whom alone, it is well known, that this legal person will lend it !

These 2,000 legal persons, then, who alone are permitted to lend money, are made up of 100,000 actual persons, who alone are to borrow it.

These 100,000 actual persons, who compose the legal persons, do not, then, become bankers because they have money to lend to others, but only because they themselves want to borrow !

Thus when the system says that they alone shall lend, it virtually says that they alone shall borrow ; because it is well known that, in practice, they *will* lend only to themselves.

In short, it says that only these 100,000 men — or one in four hundred of the population — shall have liberty either to lend, or borrow, capital ! Such capital

as is indispensable to every producer of wealth, if he would control his own industry, or make his labor most productive.

Consequently, it says, practically — so far as it is in its power to say — that only one person in four hundred of the population shall be permitted to have capital; or, consequently, to labor directly for himself; and that all the rest of the four hundred shall be compelled to labor for this one, at such occupations, and for such wages, as he shall see fit to dictate.

In short, the system says — as far as it can say — that only 100,000 persons — only one person in four hundred of the population — *shall be suffered to have any money!* And, consequently, that all the property and labor of the thirty-nine million nine hundred thousand (39,900,000) persons shall be under the practical, and nearly absolute, control of these 100,000 persons! It says that thirty-nine million nine hundred thousand (39,900,000) persons shall be in a state of industrial and commercial servitude (to the 100,000), elevated but one degree above that of chattel slavery.

And this scheme is substantially carried out in practice. These 100,000 men call themselves "*the business men*" of the country. By this it is meant, not that they are the producers of wealth, but only that they alone handle the money! Other persons are permitted to sell only to them! to buy only of them! to labor only for them! and to sell to, buy of, and labor for, them, only at such prices as these 100,000 shall dictate.

These 100,000 so called "*business men*," not only own the government, but they *are* the government. Congress is made up of them, and their tools. And they hold all the other departments of the government in their hands. Their sole purpose is power and plunder; and they suffer no constitutional or natural law to stand in the way of their rapacity.

How many times, during the last presidential canvass, were we told that "*the business men*" of the country wished things to remain as they were? Having gathered all power into their own hands, having subjected all the property and all the labor of the country to their service and control, who can wonder that they were content with things as they were? That they did not desire any change? And their money and their frauds being omnipotent in carrying elections, there was no change.

These 100,000 "business men," having secured to themselves the control of all bank credits, and thereby the control of all business depending on bank loans; having also obtained control of the government, enact that foreigners shall not be permitted to compete with them, by selling goods in our markets, except under a disadvantage of fifty to one hundred per cent.

And this is the industrial and financial system which the "National" bank system establishes — so far as it can establish it. And this is the scheme by means of which these 100,000 men cripple, and more than half paralyze, the industry of forty millions of people, and secure to themselves so large a portion of the proceeds of such industry as they see fit to permit.

CHAPTER IX.

AMASA WALKER'S OPINION OF THE AUTHOR'S SYSTEM.

AS MR. AMASA WALKER is considered the highest authority in the country, in opposition to all paper currency that does not represent gold or silver actually on hand, it will not be impertinent to give his opinion of the system now proposed.

He reviewed it in a somewhat elaborate article, entitled "*Modern Alchemy*," published in the *Bankers Magazine* (N. Y.) for December, 1861.

That he had no disposition to do any thing but condemn the system to the best of his ability, may be inferred from the following facts.

After describing the efforts of the old alchemists to transmute the baser metals into gold, he represents all attempts to make a useful paper currency as attempts "*to transmute paper into gold.*" He says that the idea that paper can be made to serve the purposes of money is "*a perfectly cognate idea*" with that of the old alchemists, that the baser metals can be transmuted into gold. (p. 407.)

He also informs us that —

"It is perfectly impracticable *to transmute paper into gold* to any extent or degree whatever, and that all attempts to do so (beneficially to the trade and

commerce of the world) are as absurd and futile as the efforts of the old alchemists to change the baser metals into the most precious." (p. 415).

These extracts are given to show the spirit and principle of his article, and the kind of arguments he employs against all paper that represents other property than coin; even though that property have equal value with coin in the market.

Yet he says: —

"One thing we cheerfully accord to MR. SPOONER'S system — *it is an honest one*. Here is no fraud, no deception. *It makes no promise that it cannot fulfil*. It does not profess to be convertible into specie [on demand]. It is the best transmutation project we have seen." (p. 413).

When he says that "it is the best *transmutation* project he has seen," the context shows that he means to say that it *comes nearer to transmuting paper into gold*, than any other system he has seen.

This admission, coming from so violent an opponent of paper currency, may reasonably be set down as the highest commendation that *he* could be expected to pay to any *paper* system.

He also says: —

"Many schemes of the same kind have, at different times, been presented to the world; but none of them have been more complete in detail, or more systematically arranged, than that of MR. SPOONER. (p. 414).

But by way of condemning the system as far as possible, he says: —

“MR. SPOONER, however, can, we think, make no claim to originality, so far as the general principle is concerned. The famous bank of JOHN LAW, in France, was essentially of the same character.” (p. 413.)

No, it was *not* essentially of the same character. One difference — to say nothing of twenty others — between the two systems was this: that LAW’s bank issued notes that it had no means to redeem; whereas MR. WALKER himself admits that “MR. SPOONER’S *system makes no promises that it cannot fulfil.*” That is to say, it purports to represent nothing except what it actually represents, viz.: property that is actually on hand, and can always be delivered, *on demand*, in redemption of the paper. Is not this difference an “essential” one? If MR. WALKER thinks it is not, he differs “essentially” from the rest of mankind: What fault was ever found with JOHN LAW’s bank, except that it could not redeem its paper? Will MR. WALKER inform us?

A VINDICATION OF MORAL LIBERTY.

VICES ARE NOT CRIMES.

I.

VICES are those acts by which a man harms himself or his property.

Crimes are those acts by which one man harms the person or property of another.

Vices are simply the errors which a man makes in his search after his own happiness. Unlike crimes, they imply no malice toward others, and no interference with their persons or property.

In vices, the very essence of crime — that is, the design to injure the person or property of another — is wanting.

It is a maxim of the law that there can be no crime without a criminal intent; that is, without the intent to invade the person or property of another. But no one ever practises a vice with any such criminal intent. He practises his vice for his own happiness solely, and not from any malice toward others.

Unless this clear distinction between vices and crimes be made and recognized by the laws, there can be on earth no such thing as individual right, liberty, or property; no such things as the right of one man to the control of his own person and property, and the corresponding and co-equal rights of another man to the control of his own person and property.

For a government to declare a vice to be a crime, and to punish it as such, is an attempt to falsify the very nature of things. It is as absurd as it would be to declare truth to be falsehood, or falsehood truth.

II.

EVERY voluntary act of a man's life is either virtuous or vicious. That is to say, it is either in accordance, or in conflict, with those natural laws of matter and mind, on which his physical, mental, and emotional health and well-being depend. In other words, every act of his life tends, on the whole, either to his happiness, or to his unhappiness. No single act in his whole existence is indifferent.

Furthermore, each human being differs in his physical, mental, and emotional constitution, and also in the circumstances by which he is surrounded, from every other human being. Many acts, therefore, that are virtuous, and tend to happiness, in the case of one person, are vicious, and tend to unhappiness, in the case of another person.

Many acts, also, that are virtuous, and tend to happiness, in the case of one man, at one time, and under one set of circumstances, are vicious, and tend to unhappiness, in the case of the same man, at another time, and under other circumstances.

III.

To know what actions are virtuous, and what vicious, — in other words, to know what actions tend, on the whole, to happiness, and what to unhappiness, — in the

case of each and every man, in each and all the conditions in which they may severally be placed, is the profoundest and most complex study to which the greatest human mind ever has been, or ever can be, directed. It is, nevertheless, the constant study to which each and every man — the humblest in intellect as well as the greatest — is *necessarily driven* by the desires and necessities of his own existence. It is also the study in which each and every person, from his cradle to his grave, must necessarily form his own conclusions ; because no one else knows or feels, or can know or feel, as he knows and feels, the desires and necessities, the hopes, and fears, and impulses of his own nature, or the pressure of his own circumstances.

IV.

IT is not often possible to say of those acts that are called vices, that they really are vices, *except in degree*. That is, it is difficult to say of any actions, or courses of action, that are called vices, that they really would have been vices, *if they had stopped short of a certain point*. The question of virtue or vice, therefore, in all such cases, is a question of quantity and degree, and not of the intrinsic character of any single act, by itself. This fact adds to the difficulty, not to say the impossibility, of any one's — except each individual for himself — drawing any accurate line, or anything like any accurate line, between virtue and vice ; that is, of telling where virtue ends, and vice begins. And this is another reason why this whole question of virtue and vice should be left for each person to settle for himself.

V.

VICES are usually pleasurable, at least for the time being, and often do not disclose themselves as vices, by their effects, until after they have been practised for many years; perhaps for a lifetime. To many, perhaps most, of those who practise them, they do not disclose themselves as vices at all during life. Virtues, on the other hand, often appear so harsh and rugged, they require the sacrifice of so much present happiness, at least, and the results, which alone prove them to be virtues, are often so distant and obscure, in fact, so absolutely invisible to the minds of many, especially of the young, that, from the very nature of things, there can be no universal, or even general, knowledge that they are virtues. In truth, the studies of profound philosophers have been expended — if not wholly in vain, certainly with very small results — in efforts to draw the lines between the virtues and the vices.

If, then, it be so difficult, so nearly impossible, in most cases, to determine what is, and what is not, vice; and especially if it be so difficult, in nearly all cases, to determine where virtue ends, and vice begins; and if these questions, which no one can really and truly determine for anybody but himself, are not to be left free and open for experiment by all, each person is deprived of the highest of all his rights as a human being, to wit: his right to inquire, investigate, reason, try experiments, judge, and ascertain for himself, what is, *to him*, virtue, and what is, *to him*, vice; in other words, what, on the whole, conduces to *his* happiness, and what, on the whole, tends to *his* unhappiness. If this great right is not to be left free and open to all, then each man's whole right, as

a reasoning human being, to "liberty and the pursuit of happiness," is denied him.

VI.

WE all come into the world in ignorance of ourselves, and of everything around us. By a fundamental law of our natures we are all constantly impelled by the desire of happiness, and the fear of pain. But we have everything to learn, as to what will give us happiness, and save us from pain. No two of us are wholly alike, either physically, mentally, or emotionally; or, consequently, in our physical, mental, or emotional requirements for the acquisition of happiness, and the avoidance of unhappiness. No one of us, therefore, can learn this indispensable lesson of happiness and unhappiness, of virtue and vice, for another. Each must learn it for himself. To learn it, he must be at liberty to try all experiments that commend themselves to his judgment. Some of his experiments succeed, and, because they succeed, are called virtues; others fail, and, because they fail, are called vices. He gathers wisdom from his failures, as well as from his successes; from his so-called vices, as from his so-called virtues. He gathers wisdom *as much* from his failures as from his successes; from his so-called vices, as from his so-called virtues. Both are necessary to his acquisition of that knowledge — of his own nature, and of the world around him, and of their adaptations or non-adaptations to each other — which shall show him how happiness is acquired, and pain avoided. And, unless he can be permitted to try these experiments to his own satisfaction, he is restrained from the acquisition of knowledge, and, consequently, from pursuing the great purpose and duty of his life.

VII.

A MAN is under no obligation to take anybody's word, or yield to anybody's authority, on a matter so vital to himself, and in regard to which no one else has, or can have, any such interest as he. He *cannot*, if he would, safely rely upon the opinions of other men, because he finds that the opinions of other men do not agree. Certain actions, or courses of action, have been practised by many millions of men, through successive generations, and have been held by them to be, on the whole, conducive to happiness, and therefore virtuous. Other men, in other ages or countries, or under other conditions, have held, as the result of their experience and observation, that these actions tended, on the whole, to unhappiness, and were therefore vicious. The question of virtue or vice, as already remarked in a previous section, has also been, in most minds, a question of degree; that is, of the extent to which certain actions should be carried; and not of the intrinsic character of any single act, by itself. The questions of virtue and vice have therefore been as various, and, in fact, as infinite, as the varieties of mind, body, and condition of the different individuals inhabiting the globe. And the experience of ages has left an infinite number of these questions unsettled. In fact, it can scarcely be said to have settled any of them.

VIII.

IN the midst of this endless variety of opinion, what man, or what body of men, has the right to say, in regard to any particular action, or course of action, "*We*

have tried this experiment, and determined every question involved in it? *We* have determined it, not only for ourselves, but for all others? And, as to all those who are weaker than we, we will coerce them to act in obedience to our conclusion? *We* will suffer no further experiment or inquiry by any one, and, consequently, no further acquisition of knowledge by anybody?"

Who are the men who have the right to say this? Certainly there are none such. The men who really do say it, are either shameless impostors and tyrants, *who would stop the progress of knowledge*, and usurp absolute control over the minds and bodies of their fellow-men; and are therefore to be resisted instantly, and to the last extent; or they are themselves too ignorant of their own weaknesses, and of their true relations to other men, to be entitled to any other consideration than sheer pity or contempt.

We know, however, that there are such men as these in the world. Some of them attempt to exercise their power only within a small sphere, to wit, upon their children, their neighbors, their townsmen, and their countrymen. Others attempt to exercise it on a larger scale. For example, an old man at Rome, aided by a few subordinates, attempts to decide all questions of virtue and vice; that is, of truth or falsehood, especially in matters of religion. He claims to know and teach what religious ideas and practices are conducive, or fatal, to a man's happiness, not only in this world, but in that which is to come. He claims to be miraculously inspired for the performance of this work; thus virtually acknowledging, like a sensible man, that nothing short of miraculous inspiration would qualify him for it. This miraculous inspiration, however, has been ineffectual to enable him to settle more than a very few questions. The most important of these are, first, that the highest religious virtue

to which common mortals can attain, *is an implicit belief in his (the pope's) infallibility!* and, secondly, that the blackest vices of which they can be guilty are to believe and declare that he is only a man like the rest of them!

It required some fifteen or eighteen hundred years to enable him to reach definite conclusions on these two vital points. Yet it would seem that the first of these must necessarily be preliminary to his settlement of any other questions; because, until his own infallibility is determined, he can authoritatively decide nothing else. He has, however, heretofore attempted or pretended to settle a few others. And he may, perhaps, attempt or pretend to settle a few more in the future, if he shall continue to find anybody to listen to him. But his success, thus far, certainly does not encourage the belief that he will be able to settle all questions of virtue and vice, even in his peculiar department of religion, in time to meet the necessities of mankind. He, or his successors, will undoubtedly be compelled, at no distant day, to acknowledge that he has undertaken a task to which all his miraculous inspiration was inadequate; and that, of necessity, each human being must be left to settle all questions of this kind for himself. And it is not unreasonable to expect that all other popes, in other and lesser spheres, will some time have cause to come to the same conclusion. No one, certainly, not claiming supernatural inspiration, should undertake a task to which obviously nothing less than such inspiration is adequate. And, clearly, no one should surrender his own judgment to the teachings of others, unless he be first convinced that these others have something more than ordinary human knowledge on this subject.

If those persons, who fancy themselves gifted with both the power and the right to define and punish other men's vices, would but turn their thoughts inwardly, they would

probably find that they have a great work to do at home ; and that, when that shall have been completed, they will be little disposed to do more towards correcting the vices of others, than simply to give to others the results of their experience and observation. In this sphere their labors may possibly be useful ; but, in the sphere of infallibility and coercion, they will probably, for well-known reasons, meet with even less success in the future than such men have met with in the past.

IX.

IT is now obvious, from the reasons already given, that government would be utterly impracticable, if it were to take cognizance of vices, and punish them as crimes. Every human being has his or her vices. Nearly all men have a great many. And they are of all kinds ; physiological, mental, emotional ; religious, social, commercial, industrial, economical, &c., &c. If government is to take cognizance of any of these vices, and punish them as crimes, then, to be consistent, it must take cognizance of all, and punish all impartially. The consequence would be, that everybody would be in prison for his or her vices. There would be no one left outside to lock the doors upon those within. In fact, courts enough could not be found to try the offenders, nor prisons enough built to hold them. All human industry in the acquisition of knowledge, and even in acquiring the means of subsistence, would be arrested ; for we should all be under constant trial or imprisonment for our vices. But even if it were possible to imprison all the vicious, our knowledge of human nature tells us that, as a general rule, they would be far more vicious in prison than they ever have been out of it.

X.

A GOVERNMENT that shall punish all vices impartially is so obviously an impossibility, that nobody was ever found, or ever will be found, foolish enough to propose it. The most that any one proposes is, that government shall punish some one, or at most a few, of what he esteems the grossest of them. But this discrimination is an utterly absurd, illogical, and tyrannical one. What right has any body of men to say, "The vices of other men *we* will punish; but our own vices nobody shall punish? *We* will restrain other men from seeking their own happiness, according to their own notions of it; but nobody shall restrain *us* from seeking our own happiness, according to our own notions of it? *We* will restrain other men from acquiring any experimental knowledge of what is conducive or necessary to their own happiness; but nobody shall restrain *us* from acquiring an experimental knowledge of what is conducive or necessary to our own happiness?"

Nobody but knaves or blockheads ever thinks of making such absurd assumptions as these. And yet, evidently, it is only upon such assumptions that anybody can claim the right to punish the vices of others, and at the same time claim exemption from punishment for his own.

XI.

SUCH a thing as a government, formed by voluntary association, would never have been thought of, if the object proposed had been the punishment of all vices, impartially; because nobody wants such an institution,

or would voluntarily submit to it. But a government, formed by voluntary association, for the punishment of all *crimes*, is a reasonable matter; because everybody wants protection for himself against all crimes by others, and also acknowledges the justice of his own punishment, if he commits a crime.

XII.

IT is a natural impossibility that a government should have a right to punish men for their *vices*; because it is impossible that a government should have any rights, except such as the individuals composing it had previously had, *as individuals*. They could not delegate to a government any rights which they did not themselves possess. They could not *contribute* to the government any rights, except such as they themselves possessed as individuals. Now, nobody but a fool or an impostor pretends that he, *as an individual*, has a right to punish other men for their vices. But anybody and everybody have a natural right, *as individuals*, to punish other men for their crimes; for everybody has a natural right, not only to defend his own person and property against aggressors, but also to go to the assistance and defence of everybody else, whose person or property is invaded. The natural right of each individual to defend his own person and property against an aggressor, and to go to the assistance and defence of every one else whose person or property is invaded, is a right without which men could not exist on the earth. And government has no rightful existence, except in so far as it embodies, and is limited by, this natural right of individuals. But the idea that each man has a natural right to sit in judgment on all his neighbor's actions, and

decide what are virtues, and what are vices, — that is, what contribute to that neighbor's happiness, and what do not, — and to punish him for all that do not contribute to it, is what no one ever had the impudence or folly to assert. It is only those who claim that government has some rightful power, *which no individual or individuals ever did, or ever could, delegate to it*, that claim that government has any rightful power to punish vices.

It will do for a pope or a king — who claims to have received direct authority from Heaven, to rule over his fellow-men — to claim the right, as the vicegerent of God, to punish men for their vices; but it is a sheer and utter absurdity for any government, claiming to derive its power wholly from the grant of the governed, to claim any such power; because everybody knows that the governed never would grant it. For them to grant it would be an absurdity, because it would be granting away their own right to seek their own happiness; since to grant away their right to judge of what will be for their happiness, is to grant away all their right to pursue their own happiness.

XIII.

WE can now see how simple, easy, and reasonable a matter is a government for the punishment of *crimes*, as compared with one for the punishment of *vices*. *Crimes* are few, and easily distinguished from all other acts; and mankind are generally agreed as to what acts are crimes. Whereas *vices* are innumerable; and no two persons are agreed, except in comparatively few cases, as to what are vices. Furthermore, everybody wishes to be protected, in his person and property, against the aggressions of other men. But nobody wishes

to be protected, either in his person or property, against himself; because it is contrary to the fundamental laws of human nature itself, that any one should wish to harm himself. He only wishes to promote his own happiness, and to be his own judge as to what will promote, and does promote, his own happiness. This is what every one wants, and has a right to, as a human being. And though we all make many mistakes, and necessarily must make them, from the imperfection of our knowledge, yet these mistakes are no argument against the right; because they all tend to give us the very knowledge we need, and are in pursuit of, and can get in no other way.

The object aimed at in the punishment of *crimes*, therefore, is not only wholly different from, but it is directly opposed to, that aimed at in the punishment of *vices*.

The object aimed at in the punishment of *crimes* is to *secure*, to each and every man alike, the fullest liberty he possibly can have — consistently with the equal rights of others — to pursue his own happiness, under the guidance of his own judgment, and by the use of his own property. On the other hand, the object aimed at in the punishment of *vices*, is to *deprive* every man of his natural right and liberty to pursue his own happiness, under the guidance of his own judgment, and by the use of his own property.

These two objects, then, are directly opposed to each other. They are as directly opposed to each other as are light and darkness, or as truth and falsehood, or as liberty and slavery. They are utterly incompatible with each other; and to suppose the two to be embraced in one and the same government, is an absurdity, an impossibility. It is to suppose the objects of a government to be to commit crimes, and to prevent crimes; to destroy individual liberty, and to secure individual liberty.

XIV.

FINALLY, on this point of individual liberty: Every man *must necessarily* judge and determine for himself as to what is conducive and necessary to, and what is destructive of, his own well-being; because, if he omits to perform this task for himself, nobody else *can* perform it for him. And nobody else will even attempt to perform it for him, except in very few cases. Popes, and priests, and kings will assume to perform it for him, in certain cases, if permitted to do so. But they will, in general, perform it only in so far as they can minister to their own vices and crimes, by doing it. They will, in general, perform it only in so far as they can make him their fool and their slave. Parents, with better motives, no doubt, than the others, too often attempt the same work. But in so far as they practise coercion, or restrain a child from anything not really and seriously dangerous to himself, they do him a harm, rather than a good. It is a law of Nature that to get knowledge, and to incorporate that knowledge into his own being, each individual must get it for himself. Nobody, not even his parents, can tell him the nature of fire, so that he will really know it. He must himself experiment with it, *and be burnt by it*, before he can know it.

Nature knows, a thousand times better than any parent, what she designs each individual for, what knowledge he requires, and how he must get it. She knows that her own processes for communicating that knowledge are not only the best, but the only ones that can be effectual.

The attempts of parents to make their children virtuous are generally little else than attempts to keep them

in ignorance of vice. They are little else than attempts to teach their children to know and prefer truth, by keeping them in ignorance of falsehood. They are little else than attempts to make them seek and appreciate health, by keeping them in ignorance of disease, and of everything that will cause disease. They are little else than attempts to make their children love the light, by keeping them in ignorance of darkness. In short, they are little else than attempts to make their children happy, by keeping them in ignorance of everything that causes them unhappiness.

In so far as parents can really aid their children in the latter's search after happiness, by simply giving them the results of their (the parents') own reason and experience, it is all very well, and is a natural and appropriate duty. But to practise coercion in matters of which the children are reasonably competent to judge for themselves, is only an attempt to keep them in ignorance. And this is as much a tyranny, and as much a violation of the children's right to acquire knowledge for themselves, and such knowledge as they desire, as is the same coercion when practised upon older persons. Such coercion, practised upon children, is a denial of their right to develop the faculties that Nature has given them, and to be what Nature designs them to be. It is a denial of their right to themselves, and to the use of their own powers. It is a denial of their right to acquire the most valuable of all knowledge, to wit, the knowledge that Nature, the great teacher, stands ready to impart to them.

The results of such coercion are not to make the children wise or virtuous, but to make them ignorant, and consequently weak and vicious; and to perpetuate through them, from age to age, the ignorance, the superstitions, the vices, and the crimes of the parents. This is proved by every page of the world's history.

Those who hold opinions opposite to these, are those whose false and vicious theologies, or whose own vicious general ideas, have taught them that the human race are naturally given to evil, rather than good; to the false, rather than the true; that mankind do not naturally turn their eyes to the light; that they love darkness, rather than light; and that they find their happiness only in those things that tend to their misery.

XV.

BUT these men, who claim that government shall use its power to prevent vice, will say, or are in the habit of saying, "We acknowledge the right of an individual to seek his own happiness in his own way, and consequently to be as vicious as he pleases; we only claim that government shall prohibit the *sale* to him of those articles by which he ministers to his vice."

The answer to this is, that the simple sale of any article whatever — independently of the use that is to be made of the article — is legally a perfectly innocent act. The quality of the act of sale depends wholly upon the quality of the use for which the thing is sold. If the use of anything is virtuous and lawful, then the sale of it, *for that use*, is virtuous and lawful. If the use is vicious, then the sale of it, *for that use*, is vicious. If the use is criminal, then the sale of it, *for that use*, is criminal. The seller is, at most, only an accomplice in the use that is to be made of the article sold, whether the use be virtuous, vicious, or criminal. Where the use is criminal, the seller is an accomplice in the crime, and punishable as such. But where the use is only vicious, the seller is only an accomplice in the vice, and is not punishable.

XVI.

BUT it will be asked, "Is there no right, on the part of government, to arrest the progress of those who are bent on self-destruction?"

The answer is, that government has no rights whatever in the matter, so long as these so-called vicious persons remain sane, *compos mentis*, capable of exercising reasonable discretion and self-control; because, so long as they do remain sane, they must be allowed to judge and decide for themselves whether their so-called vices really are vices; whether they really are leading them to destruction; and whether, on the whole, they will go there or not. When they shall become insane, *non compos mentis*, incapable of reasonable discretion or self-control, their friends or neighbors, or the government, must take care of them, and protect them from harm, and against all persons who would do them harm, in the same way as if their insanity had come upon them from any other cause than their supposed vices.

But because a man is supposed, by his neighbors, to be on the way to self-destruction, from his vices, it does not, therefore, follow that he is insane, *non compos mentis*, incapable of reasonable discretion and self-control, within the legal meaning of those terms. Men and women may be addicted to very gross vices, and to a great many of them,—such as gluttony, drunkenness, prostitution, gambling, prize-fighting, tobacco-chewing, smoking, and snuffing, opium-eating, corset-wearing, idleness, waste of property, avarice, hypocrisy, &c., &c.,—and still be sane, *compos mentis*, capable of reasonable discretion and self-control, within the meaning of the law. And so long as they are sane, they must be permitted to control

themselves and their property, and to be their own judges as to where their vices will finally lead them. It may be hoped by the lookers-on, in each individual case, that the vicious person will see the end to which he is tending, and be induced to turn back. But, if he chooses to go on to what other men call destruction, he must be permitted to do so. And all that can be said of him, so far as this life is concerned, is, that he made a great mistake in his search after happiness, and that others will do well to take warning by his fate. As to what may be his condition in another life, that is a theological question with which the law, in this world, has no more to do than it has with any other theological question, touching men's condition in a future life.

If it be asked how the question of a vicious man's sanity or insanity is to be determined? the answer is, that it is to be determined by the same kinds of evidence as is the sanity or insanity of those who are called virtuous; and not otherwise. That is, by the same kinds of evidence by which the legal tribunals determine whether a man should be sent to an asylum for lunatics, or whether he is competent to make a will, or otherwise dispose of his property. Any doubt must weigh in favor of his sanity, as in all other cases, and not of his insanity.

If a person really does become insane, *non compos mentis*, incapable of reasonable discretion or self-control, it is then a crime, on the part of other men, to give to him or sell to him, the means of self-injury.* And such a crime is to be punished like any other crime.

There are no crimes more easily punished, no cases in which juries would be more ready to convict, than those

* To give an insane man a knife, or any other weapon, or thing, by which he is likely to injure himself, is a crime.

where a sane person should sell or give to an insane one any article with which the latter was likely to injure himself.

XVII.

BUT it will be said that some men are made, by their vices, dangerous to other persons; that a drunkard, for example, is sometimes quarrelsome and dangerous toward his family or others. And it will be asked, "Has the law nothing to do in such a case?"

The answer is, that if, either from drunkenness or any other cause, a man be really dangerous, either to his family or to other persons, not only himself may be rightfully restrained, so far as the safety of other persons requires, but all other persons — who know or have reasonable grounds to believe him dangerous — may also be restrained from selling or giving to him anything that they have reason to suppose will make him dangerous.

But because one man becomes quarrelsome and dangerous after drinking spirituous liquors, and because it is a crime to give or sell liquor to such a man, it does not follow at all that it is a crime to sell liquors to the hundreds and thousands of other persons, who are not made quarrelsome or dangerous by drinking them. Before a man can be convicted of crime in selling liquor to a dangerous man, it must be shown that the *particular man*, to whom the liquor was sold, was dangerous; and also that the seller knew, or had reasonable grounds to suppose, that the man would be made dangerous by drinking it.

The presumption of law is, in all cases, that the sale is innocent; and the burden of proving it criminal, in any particular case, rests upon the government. *And that particular case must be proved criminal, independently of all others.*

Subject to these principles, there is no difficulty in convicting and punishing men for the sale or gift of any article to a man, who is made dangerous to others by the use of it.

XVIII.

BUT it is often said that some vices are nuisances (public or private), and that nuisances can be abated and punished.

It is true that anything that is really and legally a nuisance (either public or private) can be abated and punished. But it is not true that the mere private vices of one man are, in any legal sense, nuisances to another man, or to the public.

No act of one person can be a nuisance to another, unless it in some way obstructs or interferes with that other's safe and quiet use or enjoyment of what is rightfully his own.

Whatever obstructs a public highway, is a nuisance, and may be abated and punished. But a hotel where liquors are sold, a liquor store, or even a grog-shop, so called, no more obstructs a public highway, than does a dry goods store, a jewelry store, or a butcher's shop.

Whatever poisons the air, or makes it either offensive or unhealthful, is a nuisance. But neither a hotel, nor a liquor store, nor a grog-shop poisons the air, or makes it offensive or unhealthful to outside persons.

Whatever obstructs the light, to which a man is legally entitled, is a nuisance. But neither a hotel, nor a liquor store, nor a grog-shop, obstructs anybody's light, except in cases where a church, a school-house, or a dwelling-house would have equally obstructed it. On this ground, therefore, the former are no more, and no less, nuisances than the latter would be.

Some persons are in the habit of saying that a liquor-shop is dangerous, in the same way that gunpowder is dangerous. But there is no analogy between the two cases. Gunpowder is liable to be exploded by accident, and especially by such fires as often occur in cities. For these reasons it is dangerous to persons and property in its immediate vicinity. But liquors are not liable to be thus exploded, and therefore are not dangerous nuisances, in any such sense as is gunpowder in cities.

But it is said, again, that drinking-places are frequently filled with noisy and boisterous men, who disturb the quiet of the neighborhood, and the sleep and rest of the neighbors.

This may be true occasionally, though not very frequently. But whenever, in any case, it is true, the nuisance may be abated by the punishment of the proprietor and his customers, and if need be, by shutting up the place. But an assembly of noisy drinkers is no more a nuisance than is any other noisy assembly. A jolly or hilarious drinker disturbs the quiet of a neighborhood no more, and no less, than does a shouting religious fanatic. An assembly of noisy drinkers is no more, and no less, a nuisance than is an assembly of shouting religious fanatics. Both of them are nuisances when they disturb the rest and sleep, or quiet, of neighbors. Even a dog that is given to barking, to the disturbance of the sleep or quiet of the neighborhood, is a nuisance.

XIX.

BUT it is said, that for one person to entice another into a vice, is a crime.

This is preposterous. If any particular act is simply a vice, then a man who entices another to commit it, is

simply an accomplice in the *vice*. He evidently commits no *crime*, because the accomplice can certainly commit no greater offence than the principal.

Every person who is sane, *compos mentis*, possessed of reasonable discretion and self-control, is presumed to be mentally competent to judge for himself of all the arguments, *pro and con*, that may be addressed to him, to persuade him to do any particular act; *provided no fraud is employed to deceive him*. And if he is persuaded or induced to do the act, his act is then his own; and even though the act prove to be harmful to himself, he cannot complain that the persuasion or arguments, to which he yielded his assent, were crimes against himself.

When fraud is practised, the case is, of course, different. If, for example, I offer a man poison, assuring him that it is a safe and wholesome drink, and he, on the faith of my assertion, swallows it, my act is a crime.

Volenti non fit injuria, is a maxim of the law. *To the willing no injury is done*. That is, no *legal* wrong. And every person who is sane, *compos mentis*, capable of exercising reasonable discretion in judging of the truth or falsehood of the representations or persuasions to which he yields his assent, is "willing," in the view of the law; and takes upon himself the entire responsibility for his acts, when no intentional fraud has been practised upon him.

This principle, *that to the willing no injury is done*, has no limit, except in the case of frauds, or of persons not possessed of reasonable discretion for judging in the particular case. If a person possessed of reasonable discretion, and not deceived by fraud, consents to practise the grossest vice, and thereby brings upon himself the greatest moral, physical, or pecuniary sufferings or losses, he cannot allege that he has been *legally* wronged. To illustrate this principle, take the case of rape. To have

carnal knowledge of a woman, *against her will*, is the highest crime, next to murder, that can be committed against her. But to have carnal knowledge of her, *with her consent*, is no crime; but at most, a vice. And it is usually holden that a female child, of no more than *ten* years of age, has such reasonable discretion, that her consent, even though procured by rewards, or promises of reward, is sufficient to convert the act, which would otherwise be a high crime, into a simple act of vice.*

We see the same principle in the case of prize-fighters. If I but lay one of my fingers upon another man's person, *against his will*, no matter how lightly, and no matter how little practical injury is done, the act is a crime. But if two men *agree* to go out and pound each other's faces to a jelly, it is no crime, but only a vice.

Even duels have not generally been considered crimes, because each man's life is his own, and the parties *agree* that each may take the other's life, if he can, by the use of such weapons as are agreed upon, and in conformity with certain rules that are also mutually assented to.

And this is a correct view of the matter, unless it can be said (as it probably cannot), that "anger is a madness" that so far deprives men of their reason as to make them incapable of reasonable discretion.

Gambling is another illustration of the principle that to the willing no injury is done. If I take but a single cent of a man's property, *without his consent*, the act is a crime. But if two men, who are *compos mentis*, possessed

* The statute book of Massachusetts makes *ten years* the age at which a female child is supposed to have discretion enough to part with her virtue. But the same statute book holds that no person, man or woman, of any age, or any degree of wisdom or experience, has discretion enough to be trusted to buy and drink a glass of spirits, on his or her own judgment! What an illustration of the legislative wisdom of Massachusetts!

of reasonable discretion to judge of the nature and probable results of their act, sit down together, and each voluntarily stakes his money against the money of another, on the turn of a die, and one of them loses his whole estate (however large that may be), it is no crime, but only a vice.

It is not a crime, even, to assist a person to commit suicide, if he be in possession of his reason.

It is a somewhat common idea that suicide is, of itself, conclusive evidence of insanity. But, although it may ordinarily be very strong evidence of insanity, it is by no means conclusive in all cases. Many persons, in undoubted possession of their reason, have committed suicide, to escape the shame of a public exposure for their crimes, or to avoid some other great calamity. Suicide, in these cases, may not have been the highest wisdom, but it certainly was not proof of any lack of reasonable discretion.* And being within the limits of reasonable discretion, it was no crime for other persons to aid it, either by furnishing the instrument or otherwise. And if, in such cases, it be no crime to aid a suicide, how absurd to say that it is a crime to aid him in some act that is really pleasurable, and which a large portion of mankind have believed to be useful?

* Cato committed suicide to avoid falling into the hands of Cæsar. Who ever suspected that he was insane? Brutus did the same. Colt committed suicide only an hour or so before he was to be hanged. He did it to avoid bringing upon his name and his family the disgrace of having it said that he was hanged. This, whether a really wise act or not, was clearly an act within reasonable discretion. Does any one suppose that the person who furnished him with the necessary instrument was a criminal?

XX.

BUT some persons are in the habit of saying that the use of spirituous liquors is *the* great source of crime ; that " it fills our prisons with criminals ; " and that this is reason enough for prohibiting the sale of them.

Those who say this, if they talk seriously, talk blindly and foolishly. They evidently mean to be understood as saying that a very large percentage of all the crimes that are committed among men, are committed by persons whose criminal passions are excited, *at the time*, by the use of liquors, and in consequence of the use of liquors.

This idea is utterly preposterous.

In the first place, the great crimes committed in the world are mostly prompted by avarice and ambition.

The greatest of all crimes are the wars that are carried on by governments, to plunder, enslave, and destroy mankind.

The next greatest crimes committed in the world are equally prompted by avarice and ambition ; and are committed, not on sudden passion, but by men of calculation, who keep their heads cool and clear, and who have no thought whatever of going to prison for them. They are committed, not so much by men who *violate* the laws, as by men who, either by themselves or by their instruments, *make* the laws ; by men who have combined to usurp arbitrary power, and to maintain it by force and fraud, and whose purpose in usurping and maintaining it is, by unjust and unequal legislation, to secure to themselves such advantages and monopolies as will enable them to control and extort the labor and properties of other men, and thus impoverish them, in order to minister to their own wealth and aggrandizement.* The robberies and

wrongs thus committed by these men, *in conformity with the laws*, — that is, *their own laws*, — are as mountains to molehills, compared with the crimes committed by all other criminals, in *violation* of the laws.

But, thirdly, there are vast numbers of frauds, of various kinds, committed in the transactions of trade, whose perpetrators, by their coolness and sagacity, evade the operation of the laws. And it is only their cool and clear heads that enable them to do it. Men under the excitement of intoxicating drinks are little disposed, and utterly unequal, to the successful practice of these frauds. They are the most incautious, the least successful, the least efficient, and the least to be feared, of all the criminals with whom the laws have to deal.

Fourthly. The professed burglars, robbers, thieves, forgers, counterfeiters, and swindlers, who prey upon society, are anything but reckless drinkers. Their business is of too dangerous a character to admit of such risks as they would thus incur.

Fifthly. The crimes that can be said to be committed under the influence of intoxicating drinks are mostly assaults and batteries, not very numerous, and generally not very aggravated. Some other small crimes, as petty thefts, or other small trespasses upon property, are some-

* An illustration of this fact is found in England, whose government, for a thousand years and more, has been little or nothing else than a band of robbers, who have conspired to monopolize the land, and, as far as possible, all other wealth. These conspirators, calling themselves kings, nobles, and freeholders, have, by force and fraud, taken to themselves all civil and military power; they keep themselves in power solely by force and fraud, and the corrupt use of their wealth; and they employ their power solely in robbing and enslaving the great body of their own people, and in plundering and enslaving other peoples. And the world has been, and now is, full of examples substantially similar. And the governments of our own country do not differ so widely from others, in this respect, as some of us imagine.

times committed, under the influence of drink, by feeble-minded persons, not generally addicted to crime. The persons who commit these two kinds of crime are but few. They cannot be said to "fill our prisons;" or, if they do, we are to be congratulated that we need so few prisons, and so small prisons, to hold them.

The State of Massachusetts, for example, has a million and a half of people. How many of these are now in prison for *crimes* — not for the vice of intoxication, but for *crimes* — committed against persons or property under the instigation of strong drink? I doubt if there be one in ten thousand, that is, one hundred and fifty in all; and the crimes for which these are in prison are mostly very small ones.

And I think it will be found that these few men are generally much more to be pitied than punished, for the reason that it was their poverty and misery, rather than any passion for liquor, or for crime, that led them to drink, and thus led them to commit their crimes under the influence of drink.

The sweeping charge that drink "fills our prisons with criminals" is made, I think, only by those men who know no better than to call a drunkard a criminal; and who have no better foundation for their charge than the shameful fact that we are such a brutal and senseless people, that we condemn and punish such weak and unfortunate persons as drunkards, as if they were criminals.

The legislators who authorize, and the judges who practise, such atrocities as these, are intrinsically criminals; unless their ignorance be such — as it probably is not — as to excuse them. And, if they were themselves to be punished as criminals, there would be more reason in our conduct.

A police judge in Boston once told me that he was in the habit of disposing of drunkards (by sending them to

prison for thirty days—I think that was the stereotyped sentence) *at the rate of one in three minutes!* and sometimes more rapidly even than that; thus condemning them as criminals, and sending them to prison, without mercy, and without inquiry into circumstances, for an infirmity that entitled them to compassion and protection, instead of punishment. The real criminals in these cases were not the men who went to prison, but the judge, and the men behind him, who sent them there.

I recommend to those persons, who are so distressed lest the prisons of Massachusetts be filled with criminals, that they employ some portion, at least, of their philanthropy in preventing our prisons being filled with persons who are *not* criminals. I do not remember to have heard that their sympathies have ever been very actively exercised in that direction. On the contrary, they seem to have such a passion for punishing criminals, that they care not to inquire particularly whether a candidate for punishment really be a criminal. Such a passion, let me assure them, is a much more dangerous one, and one entitled to far less charity, both morally and legally, than the passion for strong drink.

It seems to be much more consonant with the merciless character of these men to send an unfortunate man to prison for drunkenness, and thus crush, and degrade, and dishearten him, and ruin him for life, than it does for them to lift him out of the poverty and misery that caused him to become a drunkard.

It is only those persons who have either little capacity, or little disposition, to enlighten, encourage, or aid mankind, that are possessed of this violent passion for governing, commanding, and punishing them. If, instead of standing by, and giving their consent and sanction to all the laws by which the weak man is first plundered, oppressed, and disheartened, and then punished as a

criminal, they would turn their attention to the duty of defending his rights and improving his condition, and of thus strengthening him, and enabling him to stand on his own feet, and withstand the temptations that surround him, they would, I think, have little need to talk about laws and prisons for either rum-sellers or rum-drinkers, or even any other class of ordinary criminals. If, in short, these men, who are so anxious for the suppression of crime, would suspend, for a while, their calls upon the government for aid in suppressing the crimes of individuals, and would call upon the people for aid in suppressing the crimes of the government, they would show both their sincerity and good sense in a much stronger light than they do now. When the laws shall all be so just and equitable as to make it possible for all men and women to live honestly and virtuously, and to make themselves comfortable and happy, there will be much fewer occasions than now for charging them with living dishonestly and viciously.

XXI.

BUT it will be said, again, that the use of spirituous liquors tends to poverty, and thus to make men paupers, and burdensome to the tax-payers; and that this is a sufficient reason why the sale of them should be prohibited.

There are various answers to this argument.

1. One answer is, that if the fact that the use of liquors tends to poverty and pauperism, be a sufficient reason for prohibiting the *sale* of them, it is equally a sufficient reason for prohibiting the *use* of them; for it is the *use*, and not the *sale*, that tends to poverty. The seller is, at

most, merely an accomplice of the drinker. And it is a rule of law, as well as of reason, that if the principal in any act is not punishable, the accomplice cannot be.

2. A second answer to the argument is, that if government has the right, and is bound, to prohibit any one act — *that is not criminal* — merely because it is supposed to tend to poverty, then, by the same rule, it has the right, and is bound, to prohibit any and every other act — *though not criminal* — which, in the opinion of the government, tends to poverty. And, on this principle, the government would not only have the right, *but would be bound*, to look into every man's private affairs, and every person's personal expenditures, and determine as to which of them did, and which of them did not, tend to poverty; and to prohibit and punish all of the former class. A man would have no right to expend a cent of his own property, according to his own pleasure or judgment, unless the legislature should be of the opinion that such expenditure would not tend to poverty.

3. A third answer to the same argument is, that if a man does bring himself to poverty, and even to beggary, — *either by his virtues or his vices*, — the government is under no obligation whatever to take care of him, unless it pleases to do so. It may let him perish in the street, or depend upon private charity, if it so pleases. It can carry out its own free will and discretion in the matter; for it is above all legal responsibility in such a case. It is not, *necessarily*, any part of a government's duty to provide for the poor. A government — that is, a legitimate government — is simply a voluntary association of individuals, who unite for such purposes, *and only for such purposes*, as suits them. If taking care of the poor — whether they be virtuous or vicious — be *not* one of those purposes, then the government, *as a government*, has no more right, and is no more bound, to take care of

them, than has or is a banking company, or a railroad company.

Whatever *moral* claims a poor man — whether he be virtuous or vicious — may have upon the charity of his fellow-men, he has no *legal* claims upon them. He must depend wholly upon their charity, if they so please. He cannot *demand*, as a *legal* right, that they either feed or clothe him. And he has no more *legal* or *moral* claims upon a government — which is but an association of individuals — than he has upon the same, or any other individuals, in their private capacity.

Inasmuch, then, as a poor man — whether virtuous or vicious — has no more or other claims, legal or moral, upon a government, for food or clothing, than he has upon private persons, a government has no more right than a private person to control or prohibit the expenditures or actions of an individual, on the ground that they tend to bring him to poverty.

Mr. A, *as an individual*, has clearly no right to prohibit any acts or expenditures of Mr. Z, through fear that such acts or expenditures may tend to bring him (Z) to poverty, and that he (Z) may, in consequence, at some future unknown time, come to him (A) in distress, and ask charity. And if A has no such right, *as an individual*, to prohibit any acts or expenditures on the part of Z, then government, which is a mere association of individuals, can have no such right.

Certainly no man, who is *compos mentis*, holds his right to the disposal and use of his own property, by any such worthless tenure as that which would authorize any or all of his neighbors, — whether calling themselves a government or not, — to interfere, and forbid him to make any expenditures, except such as *they* might think would *not* tend to poverty, and would *not* tend to ever bring him to them as a supplicant for their charity.

Whether a man, who is *compos mentis*, come to poverty, through his virtues or his vices, no man, nor body of men, can have any right to interfere with him, on the ground that their sympathy may some time be appealed to in his behalf; because, if it should be appealed to, they are at perfect liberty to act their own pleasure or discretion as to complying with his solicitations.

This right to refuse charity to the poor — whether the latter be virtuous or vicious — is one that governments always act upon. No government makes any more provision for the poor than it pleases. As a consequence, the poor are left, to a great extent, to depend upon private charity. In fact, they are often left to suffer sickness, and even death, because neither public nor private charity comes to their aid. How absurd, then, to say that government has a right to control a man's use of his own property, through fear that he may sometime come to poverty, and ask charity.

4. Still a fourth answer to the argument is, that the great and only incentive which each individual man has to labor, and to create wealth, is that he may dispose of it according to his own pleasure or discretion, and for the promotion of his own happiness, and the happiness of those whom he loves.*

Although a man may often, from inexperience or want of judgment, expend some portion of the products of his labor injudiciously, and so as not to promote his highest welfare, yet he learns wisdom in this, as in all other matters, by experience; by his mistakes as well as by his successes. *And this is the only way in which he can learn wisdom.* When he becomes convinced that he has made one foolish expenditure, he learns thereby not to make

* It is to this incentive alone that we are indebted for all the wealth that has ever been created by human labor, and accumulated for the benefit of mankind.

another like it. And he must be permitted to try his own experiments, and to try them to his own satisfaction, in this as in all other matters; for otherwise he has no motive to labor, or to create wealth at all.

Any man, who is a man, would rather be a savage, and be free, creating or procuring only such little wealth as he could control and consume from day to day, than to be a civilized man, knowing how to create and accumulate wealth indefinitely, and yet not permitted to use or dispose of it, except under the supervision, direction, and dictation of a set of meddling, superserviceable fools and tyrants, who, with no more knowledge than himself, and perhaps with not half so much, should assume to control him, on the ground that he had not the right, or the capacity, to determine for himself as to what he would do with the proceeds of his own labor.

5. A fifth answer to the argument is, that if it be the duty of government to watch over the expenditures of any one person, — who is *compos mentis*, and not criminal, — to see what ones tend to poverty, and what do not, and to prohibit and punish the former, then, by the same rule, it is bound to watch over the expenditures of all other persons, and prohibit and punish *all* that, in its judgment, tend to poverty.

If such a principle were carried out impartially, the result would be, that all mankind would be so occupied in watching each other's expenditures, and in testifying against, trying, and punishing such as tended to poverty, that they would have no time left to create wealth at all. Everybody capable of productive labor would either be in prison, or be acting as judge, juror, witness, or jailer. It would be impossible to create courts enough to try, or to build prisons enough to hold, the offenders. All productive labor would cease; and the fools that were so intent on preventing poverty, would not only all come to

poverty, imprisonment, and starvation themselves, but would bring everybody else to poverty, imprisonment, and starvation.

6. If it be said that a man may, at least, be rightfully compelled to support his family, and, consequently, to abstain from all expenditures that, in the opinion of the government, tend to disable him to perform that duty, various answers might be given. But this one is sufficient, viz.: that no man, unless a fool or a slave, would acknowledge any family to be his, if that acknowledgment were to be made an excuse, by the government, for depriving him, either of his personal liberty, or the control of his property.

When a man is allowed his natural liberty, and the control of his property, his family is usually, almost universally, the great paramount object of his pride and affection; and he will, not only voluntarily, but as his highest pleasure, employ his best powers of mind and body, not merely to provide for them the ordinary necessaries and comforts of life, but to lavish upon them all the luxuries and elegancies that his labor can procure.

A man enters into no moral or legal obligation with his wife or children to do anything for them, except what he can do consistently with his own personal freedom, and his natural right to control his own property at his own discretion.

If a government can step in and say to a man, — who is *compos mentis*, and who is doing his duty to his family, *as he sees his duty*, and according to *his* best judgment, however imperfect that may be, — “*We* (the government) suspect that you are not employing your labor to the best advantage for your family; *we* suspect that your expenditures, and your disposal of your property, are not so judicious as they might be, for the interest of your family; and therefore *we* (the govern-

ment) will take you and your property under our special surveillance, and prescribe to you what you may, and may not do, with yourself and your property; and your family shall hereafter look to *us* (the government), and not to you, for support" — if a government can do this, all a man's pride, ambition, and affection, relative to his family, would be crushed, so far as it would be possible for human tyranny to crush them; and he would either never have a family (whom he would publicly acknowledge to be his), or he would risk both his property and his life in overthrowing such an insulting, outrageous, and insufferable tyranny. And any woman who would wish her husband — he being *compos mentis* — to submit to such an unnatural insult and wrong, is utterly undeserving of his affection, or of anything but his disgust and contempt. And he would probably very soon cause her to understand that, if she chose to rely on the government, for the support of herself and her children, rather than on him, she must rely on the government alone.

XXII.

STILL another and all-sufficient answer to the argument that the use of spirituous liquors tends to poverty, is that, *as a general rule*, it puts the effect before the cause. It assumes that it is the use of the liquors that causes the poverty, instead of its being the poverty that causes the use of the liquors.

Poverty is the natural parent of nearly all the ignorance, vice, crime, and misery there are in the world.*

* Except those great crimes, which the few, calling themselves governments, practise upon the many, by means of organized, systematic extortion and tyranny. And it is only the poverty, ignorance, and consequent weakness of the many, that enable the combined and organized few to acquire and maintain such arbitrary power over them.

Why is it that so large a portion of the laboring people of England are drunken and vicious? Certainly not because they are by nature any worse than other men. But it is because their extreme and hopeless poverty keeps them in ignorance and servitude, destroys their courage and self-respect, subjects them to such constant insults and wrongs, to such incessant and bitter miseries of every kind, and finally drives them to such despair, that the short respite that drink or other vice affords them, is, for the time being, a relief. This is the chief cause of the drunkenness and other vices that prevail among the laboring people of England.

If those laborers of England, who are now drunken and vicious, had had the same chances and surroundings in life as the more fortunate classes have had; if they had been reared in comfortable, and happy, and virtuous homes, instead of squalid, and wretched, and vicious ones; if they had had opportunities to acquire knowledge and property, and make themselves intelligent, comfortable, happy, independent, and respected, and to secure to themselves all the intellectual, social, and domestic enjoyments which honest and justly rewarded industry could enable them to secure, — if they could have had all this, instead of being born to a life of hopeless, unrewarded toil, with a certainty of death in the workhouse, they would have been as free from their present vices and weaknesses as those who reproach them now are.

It is of no use to say that drunkenness, or any other vice, only adds to their miseries; for such is human nature — the weakness of human nature, if you please — that men can endure but a certain amount of misery, before their hope and courage fail, and they yield to almost anything that promises present relief or mitigation; though at the cost of still greater misery in the future. To preach morality or temperance to such wretched per-

sons, instead of relieving their sufferings, or improving their conditions, is only insulting their wretchedness.

Will those who are in the habit of attributing men's poverty to their vices, instead of their vices to their poverty, — as if every poor person, or most poor persons, were specially vicious, — tell us whether all the poverty and want that, within the last year and a half,* have been brought so suddenly — as it were in a moment — upon at least twenty millions of the people of the United States, were brought upon them as a natural consequence, either of their drunkenness, or of any other of their vices? Was it their drunkenness, or any other of their vices, that paralyzed, as by a stroke of lightning, all the industries by which they lived, and which had, but a few days before, been in such prosperous activity? Was it their vices that turned the adult portion of those twenty millions out of doors without employment, compelled them to consume their little accumulations, if they had any, and then to become beggars, — beggars for work, and, failing in this, beggars for bread? Was it their vices that, all at once, and without warning, filled the homes of so many of them with want, misery, sickness, and death? No. Clearly it was neither the drunkenness, nor any other vices, of these laboring people, that brought upon them all this ruin and wretchedness. And if it was not, *what was it?*

This is the problem that must be answered; for it is one that is repeatedly occurring, and constantly before us, and that cannot be put aside.

In fact, the poverty of the great body of mankind, the world over, is the great problem of the world. That such extreme and nearly universal poverty exists all over the world, and has existed through all past generations,

* That is, from September 1, 1873, to March 1, 1875.

proves that it originates in causes which the common human nature of those who suffer from it, has not hitherto been strong enough to overcome. But these sufferers are, at least, beginning to see these causes, and are becoming resolute to remove them, let it cost what it may. And those who imagine that they have nothing to do but to go on attributing the poverty of the poor to their vices, and preaching to them against their vices, will ere long wake up to find that the day for all such talk is past. And the question will then be, not what are men's vices, but what are their rights?

OUR FINANCIERS:
THEIR IGNORANCE, USURPATIONS,
AND FRAUDS.

By LYSANDER SPOONER.

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OUR FINANCIERS: THEIR IGNORANCE, USURPATIONS, AND FRAUDS.

I.

THE great battle in Ohio for more money,—by which is here meant the political canvass for the year 1875,—in which the whole country participated, is still worthy of notice, not only because there is doubtless a widespread determination to fight it over again, but also because it affords a ludicrous, but much needed, illustration, as well as an irrefutable proof, of the prevailing ignorance on the subject of money.

That that violent, but ridiculous, contest may serve as a caution to the people against being drawn into the same, or any similar one, in future, is one purpose of this article. Its other purposes are to expose the usurpations and frauds by which the people are deprived of money, and to vindicate, as far as its limits will permit, the right of the people, by the use of their own property and credit, to supply themselves with such money as they can, and as much of it as they please, free of all dictation or interference from the government.

The question at issue in Ohio, in 1875, was the 3.65 interconvertible bond scheme; a scheme, of the practical operation of which the writers and speakers, on neither side, seemed to have the least real knowledge whatever. It would have had neither the good effects which its friends expected, nor the bad effects which its enemies predicted. That is to say, it would neither have provided "a currency equal to the wants of trade," as claimed by its friends, nor would it have flooded the country with a depreciated currency, as predicted by its opposers. As a system for furnishing a *permanent* currency, either good or bad, it would have fallen utterly dead. Worse than that, instead of furnishing a permanent currency in place of that we now have,

it would have deprived us of the one we now have, without furnishing any substitute at all.

That such would have been its effect is evident from these considerations, namely:—

It is a settled principle that a paper currency depends, for its true and natural market value, wholly upon the redemption that is provided for it. It has, and it can have, no more true or natural market value than the property with which it is to be redeemed. A paper currency, therefore, that has no other redemption than that of being convertible into interest-bearing bonds, can be worth no more in the market than are the bonds themselves, and, consequently, no more than it is worth *for conversion into the bonds*. And it is worth nothing for conversion into bonds, unless there are some one or more persons who wish thus to convert it. In other words, it is this demand for the *bonds, as investments*, that alone gives the *currency* any value in the market. A convertible note of this kind, therefore, circulates as money only because some one or more persons want it for conversion. *And it circulates only until it falls into the hands of such a person*. When it falls into his hands, he converts it, *and thus takes it out of circulation*.

The destiny, therefore, of all such convertible paper, *that is in circulation as money, is finally to be converted into bonds, and thus taken out of circulation*. And there is then an end of it, so far as its being currency is concerned.

We saw the operation of this principle so long as the greenbacks were convertible into bonds. The conversion went on so rapidly that we should soon have had no greenbacks at all in circulation, had not the conversion of them into bonds been stopped by law. And our greenbacks now remain in circulation only because they are *not* convertible into bonds.

For the reasons now given, if our whole national debt were to-day in circulation as currency, *having no other redemption than that of being convertible into 3.65 bonds*, it would be worth for circulation no more than it would be worth for such conversion; and, as a natural consequence, it would rapidly, though not instantly, be converted, *and thus taken out of circulation; and we should then have entirely lost it as a currency*. And, as the scheme

proposes to prohibit all other currency, we should then be left with no currency at all.

The 3.65 bond scheme, therefore, instead of being a scheme for providing the country with a currency, is perfectly suicidal, so far as furnishing a currency is concerned. It is simply a scheme for providing a paper currency for circulation *by withdrawing all such currency from circulation!* It is absurdity run mad.

II.

But the advocates of the scheme will say that it provides that these bonds *may* be reconverted into currency. Yes, it does indeed provide that they *may*, but not that they *must*, be thus reconverted. *And it offers no inducements whatever for such re-conversion;* because, if reconverted, the currency will then be worth no more in the market than the bonds are worth as investments; since all that will give the currency any value at all in the market will then, as before, be the simple fact that it (the currency) is convertible back into the same bonds from which it has just been reconverted!

The bonds are to be holden by men who preferred the bonds to the currency, *when both had the same value in the market.* And now the scheme contemplates that the country will go without any currency at all, until these same bondholders shall change their minds, and prefer the currency to the bonds, *when both have still the same value in the market!* Who can tell when the bondholders will do that? The bonds are their estates, their investments, on which they rely for their daily bread. They are the estates which they have preferred to all others, as a means of living. To presume that they will reconvert them into currency, is just as absurd as it would be to presume that a man who has just bought a farm, and relies upon it for his living; will sell it for money that will enable him to do nothing else so good for himself as to buy back the same farm that he parts with.

III.

But General Butler, who, I believe, claims to have been the author of this scheme, says that, "*in case of a scarcity of money,*"

"a demand for money by a high rate of interest will call forth these bonds."¹

He means by this that, in times of "scarcity of money," "a high rate of interest"—that is, a higher rate than the bonds themselves bear—will induce a holder of these bonds to recon-vert them into legal tender notes, *in order to lend them!*

This is certainly furnishing "more money" with a vengeance. The real value of the notes corresponds precisely to the value of a 3.65 interest-bearing bond, and General Butler would allow the people to have no money at all, except in some rare emergency, when the "scarcity" is so great as to induce them to give a higher rate of interest than the money is really worth,—enough higher to induce the bondholder to surrender his investments, and become a money lender instead.

This is equivalent to saying that nobody shall be permitted to borrow money, except in those emergencies when he will submit to be fleeced for the sake of getting it!

And to make it impossible for any body to borrow money, except at this extortionate rate, he would "*prohibit by the severest penalties every other person, corporation, or institution from issuing any thing that might appear in the semblance of money!*"

And this proposition comes from a man who proposes to furnish the people with "more money," and thus save them from the extortions of the present money dealers!

However such an extortion might occasionally relieve an individual, who was so sorely pressed as to consent to be fleeced, it would do nothing towards supplying the people at large with money; because the money thus issued to an individual would not continue in circulation, unless it should constantly pass from hand to hand *at a price beyond its true value*; that is, at a price beyond its value for conversion. The result would be that the people could have no money at all, except upon the condition of their constantly giving more for the money than it was worth!

¹ See his speech in New York, October 14, 1875, reported in the New York "Daily Graphic" of October 15.

IV.

Another device of General Butler, by which he appears to think he could keep at least some of the currency in circulation, is this: He would make it "*the legal tender of the United States for all debts due to or by the government or individuals.*"

But this would add nothing at all to its real value; and it would have no appreciable, or certainly no important, effect in preventing the conversion of the currency into bonds; or, what is the same thing, in preventing a withdrawal of the currency from circulation; for the currency would still have no more real or true value for circulation than it would for conversion.

General Butler's plan, therefore, amounts practically to this: He would allow the people no money at all, except on rare occasions, when, as he thinks, the "scarcity" would be so severe as to induce them to pay an extortionate price for it!

But, under such a system, there would really be no such thing as a *rare and occasional* "scarcity;" *there would be nothing but constant, perpetual, and utter destitution.* At least such would be the case, so soon as all the notes should have been converted into bonds.

The idea of allowing the people no money at all, except occasionally in times of "scarcity," corresponds to one that should forbid the people to have any food at all, except occasionally in times of famine. Under such a system, it is plain there would never be a rare or occasional famine; but there would be, instead of it, a constant and perpetual one. So, under Butler's scheme, there would never be any rare or occasional "scarcity of money;" but there would be a constant and perpetual destitution of it.

Yet he calls it a scheme for providing the people with more money! In reality, it is merely a scheme for depriving them of money altogether.

V.

Such being the real character of this 3.65 scheme, we are enabled to see the true character of the late battle in Ohio for and against it. And it is important to consider that, although the

battle was nominally fought in Ohio, the whole country took part in it. The whole country took part in it, because it was considered that the result in Ohio would very likely decide the result in the whole country.

Thus we had the ludicrous and humiliating spectacle of forty millions of people fighting a fierce and bitter contest for and against a scheme, *of the real nature of which neither party knew any thing!* One party thought it was a scheme for furnishing the money really needed for industry and trade. The other party thought it was a scheme for overwhelming the country with a depreciated currency. In reality, it was a scheme to deprive the country of money altogether!

If any body had any thing to *fear* from this system, it was the very party that advocated it; for they wanted *more* money and not less. And if any body had any thing to *hope* from the system, it was the party that opposed it; for they wanted *less* money and not more.

Here, then, were two opposing armies, each fighting with all fury against itself, under the belief that it was fighting its antagonist!

VI.

The question now arises: If all the statesmen (so-called), all the financiers and bankers, all the editors, all the violent writers and speakers, who took part in this contest, know no more about finance than to take such parts as they did *either for or against* this ridiculous and absurd scheme, how much do they know about the system which the industry and prosperity of the country really require?

And if we shall conclude that they do not know any thing, perhaps we may conclude that they should not quite so arrogantly assume to dictate to us what, or how much, money we shall, or shall not, have; nor, consequently, to decide (as it is their purpose to do) what, or how much, money all other property shall be sold for.

Perhaps we may even conclude that men who have demonstrated their ignorance beyond all cavil or controversy, as they have, and who, by their ignorance, or something worse, have brought upon forty millions of people such ruin and misery as

they have, ought to be exceedingly modest for the rest of their lives, especially on the subject of money.

Perhaps we may conclude that to paralyze the industry of the country for four, five, or six years together, at a loss of three, four, or five thousand millions of dollars per annum,—say, twenty thousand millions in all,—under pretence that it is necessary in order to raise, by five, ten, or fifteen per cent., the market value of eight hundred millions,—that is, to raise their value, say, one hundred millions in all,—perhaps, I say, we may conclude that to thus impoverish a people to the extent of twenty thousand millions, under pretence of saving or giving to somebody one hundred millions, is neither good financiering, good morals, nor good government; and that it indicates that there is something a great deal worse than sheer ignorance at work in the plans of the government.

Perhaps we may conclude that a dollar, in order to be a standard of value, must have something like a fixed value itself, *which it will maintain against all competition*; that, if it has any thing like such a fixed value, then ten, a hundred, a thousand, or a million of dollars must necessarily have ten, a hundred, a thousand, or a million times more value than one dollar has; and to say that, by the prohibition of all other money, one dollar can be made to have as much “purchasing power” as ten, a hundred, a thousand, or a million dollars, is only to say that, by the prohibition of all other money, the holder of the one dollar will be enabled to extort, in exchange for it, ten, a hundred, a thousand, or a million times more of other men’s property than the money is worth.

Perhaps we may conclude that the holders of the present stock of money, whose cardinal financial principle is that, by the prohibition of all other money, any small amount becomes invested with a “purchasing power” indefinitely greater than its true and natural market value, and who openly avow that that is their reason for insisting that all money shall be suppressed, except that small amount which they themselves hold, thereby virtually proclaim their purpose to be to so use their money as to extort, in exchange for it, an indefinite amount more of other men’s property than the money is worth. And perhaps we may conclude that a government which, on this

ground, as avowed by its most conspicuous members and partisans, maintains a hard monopoly of money, thereby virtually acknowledges itself to be a mere instrument in the hands of these extortioners, for accomplishing the purposes they have in view.

Perhaps we may conclude that it is indispensable to all honest and equitable traffic that the money that is paid for any other property should have the same amount of true and natural market value as the property that is given in exchange for it; and that the moment this principle is acknowledged, all justification for the interference of the government ceases; since it is the sole right of the parties to contracts to decide for themselves, in each case, what money, and what amount of money, is, and is not, a *bona fide* equivalent for the property that is to be given in exchange for it.

Perhaps, also, we may conclude that the notes of private persons or private companies, who have property with which to pay their notes, and who can be sued and compelled to pay them, with interest and costs from the time of demand, are quite as likely to give us a specie-paying currency, and are quite as deserving of the name of "honest money," as are the notes of a government that has no property to pay with; that cannot be sued or compelled to pay; and that has no intention of paying, unless, or until, it can do so without relaxing the monopoly it is determined to maintain.

Perhaps we may conclude that a government, which, for ten years together, prohibits, by a ten per cent. tax, all specie-paying notes, and at the same time, by the grossest usurpation, makes its own irredeemable, depreciated, non-specie-paying notes a legal tender in payment of all private debts, cannot reasonably be credited (however loud may be its professions) with any burning desire either for "specie payments," or for "honest money."

Perhaps we may conclude that any privileged money whatever, whether issued by a government or by individuals, is necessarily a dishonest money; just as a privileged man is necessarily a dishonest man; and just as any other privileged thing is necessarily a dishonest thing. For this reason we may perhaps conclude that a government that constantly cries out for "honest money," when it all the while means and maintains, and insists

upon maintaining, a privileged money, acts the part only of a blockhead or a cheat.

Perhaps we may conclude that, when the fraudulent pretences by which the monopoly of money has been thus far maintained, and the fraudulent purposes for which it has been maintained, have been so fully demonstrated that they can no longer be concealed or denied, and after the effects of the monopoly have been to impoverish the country to an amount at least twenty times greater than the whole amount of the privileged money,—perhaps we may conclude that, after all these results, the responsibility of the authors of the monopoly is not to be evaded, nor their motives justified, by any such mock freedom in banking as is offered to us, provided we will use only government bonds as banking capital, and come under all such regulations and conditions as the government may prescribe, and thus give up all right to bank upon any portion of the thirty thousand millions of other property which we have (or once had, and may have again); at least twenty thousand millions of which are better banking capital than any government bonds can be; and which we have a perfect right to use as banking capital, without asking any permission of the government, or coming under any of its regulations or conditions.

Perhaps we may conclude that this attempt of the government to delude us into the idea that we can have perfect freedom in banking, while deprived of our right to use the twenty or thirty thousand millions of banking capital we already have, and while restricted to the contemptible amount of capital we can have, or can afford to have, under the system proposed by the government, is very much like a proposal to establish perfect freedom in farming by requiring men to give up all the farms they now have, and buy some of the government lands in Oregon or Alaska, and there come under all such regulations and conditions as the government may prescribe.

Perhaps we may conclude that the establishment of a monopoly of money is equivalent to the establishment of monopolies in all the businesses that are carried on by means of money,—to wit, all businesses that are carried on at all in civilized society; and that to establish such monopolies as these is equivalent to condemning all persons, except those holding the

monopolies, to the condition of tributaries, dependents, servants, paupers, beggars, or slaves. Perhaps we may conclude that the establishment of a monopoly of money is also equivalent to a prohibition upon all businesses, except such as the monopolists of money may choose to license. And perhaps we may conclude that, if government were to prohibit directly all businesses, except such as it should choose to license, and, by direct grants, were to make all these licensed businesses subjects of monopoly, its acts, in so doing, would be no more flagrant tyrannies, and no more flagrant violations of men's natural rights, than are its acts in establishing the single monopoly of money.

Perhaps, after we shall have been insulted and impoverished by a few more such cheats as the "specie payment" cheat, the "honest money" cheat, the "free banking" cheat, and all the other cheats to which the government has resorted, for the one sole purpose of maintaining that monopoly of money on which the last administration relied for its support, and which the present administration is evidently determined to maintain, we may conclude that it is time for the people to take the matter of money into their own hands, and assert their right to provide their own money, in their own way, free of all dictation or interference from the government.

Perhaps we may conclude that the right to live, and to provide ourselves with food, clothing, shelter, and all the other necessities and comforts of life, necessarily includes the right to provide ourselves with money; inasmuch as, in civilized life, money is the immediate and indispensable instrumentality for procuring all these things. Hence we may perhaps conclude that a people who surrender their natural right to provide themselves with money, practically surrender their right to provide for their own subsistence; and that a government that demands such a surrender, or attempts to take from them that right, and give it as a monopoly to a few, is as necessarily and as plainly the mere instrument of that few, as it would be if it were to require the people to surrender their right to follow their occupations as farmers, mechanics, and merchants, and give all these occupations as monopolies into the hands of the same few to whom it now gives the monopoly of money.

Perhaps we may conclude that we want no special laws whatever, either of license, prohibition, or regulation, on the subject of banking; that bankers, like other men, should be free to make their own contracts, and then, like other men, be compelled to fulfil them; and that their private property, like the private property of all other men, should be holden to pay their debts.

Perhaps we may conclude that it is the natural right of every man, who has a dollar's worth of property that can be taken by legal process and applied to the payment of a promissory note, to offer his note for that amount in the market; and that it is the natural right of every body that pleases, to accept that note in exchange for other property; and that it is also a natural right of every subsequent holder of that note to offer it again in the market, and exchange it for other property with whomsoever may choose to accept it.

And since, in this way, it is not only theoretically possible, but absolutely practicable, that, to say the least, a very large amount of the material property of the country should be represented by promissory notes, and thus made to aid in furnishing a solvent and legitimate currency; and since nobody can be required to accept such a currency unless he pleases; and since nobody who chooses to accept it can either say that he is wronged, or be said to wrong any body else, by accepting it,—perhaps we may conclude that such a currency as this—if the people, or any portion of them, prefer it to any other that is offered them—can not rightfully be prohibited.

Perhaps we may conclude that no considerable accumulations of coin are necessary to maintain specie payments; that, where banking is free, and the private property of the bankers is holden for the debts of the banks, the business of banking naturally and necessarily falls into the hands of men of known wealth, whose notes challenge the scrutiny, and command the confidence, of the whole community; that, as these men, if permitted to do it, are always ready to supply the market with the greatest amount of notes that can be kept in circulation, the public have no temptation to accept any doubtful notes, and doubtful notes can consequently get no circulation; that, when the public are thus satisfied of the solvency of the notes they hold, they prefer them to coin, and the bankers rarely have any occasion to redeem them other-

wise than by receiving them in payment of the notes they discount; that, as all the bank notes issued are wanted to pay the notes discounted, and are, at short intervals after their issue,—say in two, three, or four months, on an average,—returned to the banks in payment of notes discounted, the bankers, as a general rule, have no need to provide for any other redemption; and that, consequently, coin, unless in very small amounts, is merely dead capital, for which the bankers have no use whatever.

And, if the practicability or utility of this system should be doubted, perhaps we may refer the doubters to the example of Scotland, where, for eighty years,—from 1765 to 1845,—all the banks of Scotland, with two or three exceptions, stood upon the principle of the individual liability of their stockholders; enjoying perfect freedom in the issue of their notes, subject only to these restrictions, namely, that they should issue no notes below one pound, and none except those made payable on demand.¹ The result was that Scotland had the best system of banks, or at least the best association of banks, for solvency, stability, and utility, that was ever known in Europe.² During all that period of eighty years, while the banks of England were failing by the hundreds, and many of them proving utterly rotten, and while all that did not prove rotten repeatedly suspended specie payments,—at one time for more than twenty years,—*the banks of Scotland never suspended specie payments, and their notes were always equal to coin.* And, by introducing manufactures, they raised Scotland, within that period, from a miserable poverty-stricken condition (the effect of her cold climate and barren soil) to a condition of prosperity and wealth second to that of no other people in Europe. These facts, and others that cannot here be enumerated at length, demonstrate that, where banks rest upon the individual liability of stockholders, *or upon any other basis that gives to the public an absolute guarantee of the solvency of the banks,* banking may be made perfectly free, and the amount of currency as great as can be kept in circulation, *and yet that it will always be equal to coin.* And they prove also that all the

¹ The first of these restrictions only impaired the usefulness of the banks, without adding any thing to their solvency.

² And better than any ever known in the United States, unless, possibly, those in Rhode Island and one or two other States.

arguments that are now used to justify restraints upon banking, and limitations upon the amount of currency, in order to maintain specie payments, proceed wholly from gross ignorance or fraud.¹

Perhaps we may conclude that money is simply property that is cut up, or divided, into such pieces or parcels as are convenient and acceptable to be given and received in exchange for other property; and that any man who has any property whatever that can be cut up, or divided, into such pieces or parcels, has a perfect legal and moral right thus to cut it up, and then freely offer it in the market, in competition with all other money, and in exchange for any other commodity, that may there be offered in competition with, or in exchange for, it. Perhaps we may conclude that the simple fact of these pieces or parcels being called money, or not called money,—of their bearing the stamp or license of the government, or not bearing it,—has nothing to do with his right to offer them in the market, or to sell them, or lend them, or exchange them, on such terms as the parties to the contracts may mutually agree upon; that the simple facts that they are property,—property that is naturally vendible,—and that they are *his* property, entitle him to sell them, or lend them, to whomsoever may wish to buy, or to borrow, them; and to do all this on such terms as the parties, free of all interference from the government, may agree upon. And perhaps we may conclude that these pieces or parcels may as rightfully be bought, sold, and exchanged (if the parties so agree) by means of contracts on paper—notes, checks, drafts, bills of exchange, or whatever else—promising to deliver them on demand, or at times agreed on, as by actual delivery of the parcels themselves, at the time of the contract.

Perhaps we may conclude that, instead of Congress having the right, in General Butler's phrase, to "prohibit, by the severest penalties, every other person, corporation, or institution [than the government itself, or those whom it licenses] from issuing any

¹ We can have a much better system even than the Scotch; better than the system of promissory notes; one that will furnish more money (if more can be used), and be more easy and convenient for the bankers and better for the public. But freedom to make experiments with any and all systems that men may choose to experiment with is what is necessary to give assurance, at all times, that we have the best possible system.

thing that might appear in the semblance of money," it has no such right whatever, nor any semblance of such a right; that it has no color of right in the matter, beyond the simple "power to provide for the punishment of counterfeiting the securities and current coin of the United States;" that, so far from their having any such right, it is one of the first and most sacred of all the duties of any and every government (that has any duties at all) to protect every man in his natural right to offer in the market every vendible or loanable commodity he has to sell, or to lend; and to sell it, or lend it, to any and every man who wishes to buy it, or borrow it; and that it is the duty of the government to protect him in his liberty to do this by any and every possible form of contract—whether check, note, draft, bill of exchange, or whatever else—that is naturally and intrinsically just and obligatory.

Perhaps we may conclude that it is as much the duty of government to protect each and every man, who has any thing deserving the name of money, or that men may choose to call money, in his right to sell or lend it to any and every other man who may choose to accept it as money, as it is to protect him in his right to sell or lend any other property whatever, which he may wish to sell or lend, and which other men may wish to buy or borrow.

Perhaps we may conclude that the simple fact that men may, or may not, choose to call any particular commodity money, makes no difference whatever in the nature, character, quality, or value of the commodity itself; and therefore cannot affect the right of men to buy, or sell, or lend, or borrow it; or to give it in exchange for any other property, on such terms as the parties (without fraud) may mutually agree upon.

Perhaps we may conclude that all men, who are presumed competent to make reasonable and obligatory contracts, must also be presumed to be just as competent to judge of the value of any money that may be offered them, as the men who offer it are to judge of the value of the commodities they are to receive in exchange for it.

Perhaps, in short, we may conclude that it is one of the natural rights of men to sell their property for such money, and as

much of it, as is offered to them for it, and as they choose to accept.

Perhaps we may also conclude that the idea of providing the people with money by prohibiting all money except such as the government itself may specially provide or license, is just as absurd, preposterous, and tyrannical as would be the idea of providing the people with food, clothing, or shelter, by prohibiting all food, clothing, or shelter, except such as the government itself may specially provide or license.

Perhaps we may conclude that, as it is with all other commodities, so it is with money, namely, that free competition in producing it and offering it in the market is the sure, and only sure, way of guaranteeing to us the greatest supply, the best article, and on the best terms; that, inasmuch as banking is but a very recent invention,—but one on which all industry and all other inventions depend mainly for their efficiency,—it is just as absurd to suppose that we have already attained perfection in it, as it would be to suppose we had attained perfection in any or all the other arts by which industry is carried on; that it is, therefore, just as absurd and suicidal to prohibit all new experiments and inventions in banking, as it would be to prohibit all new experiments and inventions in agriculture, mechanics, or any of the other arts of life; and that, to be consistent, those who would prohibit all new experiments and inventions in banking ought also to insist that the patent office be closed, and that all new experiments and inventions in any and every art and science whatsoever be prohibited.

Perhaps we may conclude that, however much money, or however many kinds of money, may be offered in the market, there is no danger that the holders will give any more of it in exchange for other men's property or labor, than such property or labor is worth; and that, therefore, there is no danger that the prices of either property or labor will ever be too high; or, what is the same thing, that property or labor will ever bring any more money than it is worth.

Perhaps we may conclude that it is time that those men who claim that gold and silver coins, by the monopoly now given to them as money, are kept at a price far above their true and

natural value as metals, and who claim that they should still be kept at that price by restrictions upon all other money, were taught that all honest and equitable commerce requires that each and every commodity that may be sold at all—whether it be called money, or by any other name—should be sold only at the price it will bear in free and open market, and subject to the free competition of every other commodity that may there be offered in competition with, or in exchange for, it; that the free and open market is as much the true and only test of the true and natural market value of every thing that can be called money, as it is of the true and natural market value of every thing that is exchanged for money.

Perhaps we may conclude that, since industry is an animal, so to speak, that feeds and lives on money; since its strength, activity, and growth depend mainly upon the amount of money that is furnished to it; since we as yet know of no limits to its increase in power, except the limits set by the money that is supplied to it; since, when it is fully supplied with money, it will create two, five, ten, a hundred, often thousands, sometimes millions, and even hundreds and thousands of millions, of dollars of wealth, for every dollar that it consumes,¹ but, when stinted or deprived of money, necessarily languishes or dies; and since, when it languishes or dies, mankind languish or die with it,—perhaps, in view of these facts, we may conclude that to stint or deprive it of money is not merely bad economy, but fatuity and suicide.²

And, finally, perhaps we may conclude that a government

¹The estimate in the text is no extravagance. Suppose we could ascertain the precise number of dollars and cents, or of pounds, shillings, and pence, expended by such men as Watt, and Arkwright, and Stephenson, and Morse, and Whitney, and Fulton, and Woodworth, and Hoe, and McCormick, and so many others, in making and perfecting their inventions,—what proportion would those figures bear to those that should even attempt to measure the immeasurable value of the inventions themselves? And what must we think of the folly, absurdity, and tyranny of that dearth of money which our monopolists of money would have maintained if they could; which would have made these inventions impossible; and which now withholds them from four-fifths, perhaps from nine-tenths, of mankind?

²We have all heard of the bumpkin who tried an experiment to ascertain upon how little food his horse could be made to subsist. His experiment succeeded to his entire satisfaction, until, from some cause he could not understand, his horse happened to die. Stupid as he was, he may possibly have suspected that it was from a want of food; for we do not hear that he ever tried the experiment again. But our financial bumpkins (or something worse) persist in trying the same experiment over and over again. The industry upon which they try it invariably dies; but they learn no wisdom, or caution (or honesty) from the results.

that sacrifices a million of lives to maintain its power, and then uses that power to trample in the dust all the natural rights of the survivors, and to cheat, plunder, and starve them, for the mere profit of the holders of eight hundred millions of money, is not a government that should be tolerated for any great length of time.

LYSANDER SPOONER.

THE
LAW OF PRICES:

A DEMONSTRATION OF

*THE NECESSITY FOR AN INDEFINITE
INCREASE OF MONEY.*

BY

LYSANDER SPOONER.

REPRINTED FROM "THE RADICAL REVIEW."

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THE LAW OF PRICES:

A DEMONSTRATION OF THE NECESSITY FOR AN INDEFINITE INCREASE OF MONEY.

I.

THE writers on money seem never to have obtained the first glimpse of the fundamental *law* which governs prices, and which necessitates a constant and indefinite increase in the volume of money. That law may be illustrated in this manner:

Suppose an island cut off from all communication with the rest of the world, and inhabited by one hundred men. Suppose that these hundred men know no industry except the production of wheat; that they produce annually one thousand bushels, each man producing ten bushels, which is enough for his own consumption. Suppose further that these hundred men have money to the amount of five dollars each in gold, silver, and copper coins, and that these coins are valued by them as highly as similar coins are now by us. What will be the price of wheat among these men, compared with the coins? Plainly, it will bear no price at all. Each man producing for himself all he can eat, no one has any occasion to buy. Therefore none can be sold at any price.

But suppose that one after another of these hundred men leave wheat-growing and engage in the production of other commodities,—each producing a different commodity from all the others,—until there shall be a hundred different commodities produced; only one man being left to produce wheat. And suppose that this one man has increased his product from ten bushels to one thousand. There is now just as much wheat as there was when all were employed in producing it. The only differences are, first, that the whole amount is produced now by one man, where

before it was produced by a hundred men ; and, secondly, that the ninety-nine men have each engaged in the production of some commodity different from that produced by any other, but of which, we will suppose, all the others wish to purchase each his proportionate share for consumption.

There is now a hundred times as much wealth produced as when all produced wheat and nothing else. But each kind has only a single producer, while it finds a hundred consumers. And each man's product, we will suppose, has the same value with every other man's product.

What, now, will be the price of wheat among these hundred men, relatively to the coins? Doubtless a dollar a bushel. When the first man abandoned wheat-growing, and betook himself to some other occupation, he created a demand for ten bushels of wheat, which he still wanted for consumption as before. This demand for ten bushels would doubtless be sufficient to give wheat the price of one cent per bushel where it had no price before. When a second man of the hundred abandoned wheat-growing, he created a demand for ten bushels more ; making twenty bushels in all. This increased demand would doubtless be sufficient to raise the market price of wheat to two cents a bushel. When a third man of the hundred left wheat-growing for some other pursuit; his demand for ten bushels would raise the market price another cent ; and so on, until by the time the ninety-nine had left wheat-growing, the continually increasing demand would have raised the price to ninety-nine cents a bushel ; for convenience of round numbers, say a dollar a bushel.

Here, then, wheat has been raised from no price at all to a dollar a bushel, not because there is any less wheat produced, or any more consumed, than before, but solely because the whole thousand bushels are now produced by one man, instead of being produced, ten bushels each, by the hundred different men who were to consume it ; and because, further, each of the ninety-nine men who have left wheat-growing is able to purchase wheat, inasmuch as he has been producing some other commodity which brings him as good a price as the wheat brings to the man who still produces wheat.

Under this new state of things, then, the man who continues to produce wheat produces a thousand bushels, worth a dollar a

bushel ; that is, a thousand dollars' worth in all. Each of the other ninety-nine produces an equal amount of market value in some other commodity. The whole hundred men, then, produce wealth that has now a market value of one hundred thousand dollars, where originally they had produced nothing that had any *market* value at all.

This change in the price of wheat has been produced, then, solely by reason of the diversity of industry and production that has taken place among these hundred men. And the market prices of all the other ninety-nine commodities have been affected by the same law, and to the same extent, as has been the price of wheat.

Here, then, is a hundred thousand dollars' worth of commodities produced, each man producing a thousand dollars' worth.

As each man retains a hundredth part of his product—that is, ten dollars' worth—for his own consumption, he has nine hundred and ninety dollars' worth for sale. The whole hundred men, therefore, have one hundred times nine hundred and ninety dollars' worth for sale, which is equal to ninety-nine thousand dollars in all ; for convenience of round numbers, say one hundred thousand dollars.

The hundred men, having each five dollars in coins, have in the aggregate five hundred dollars. To make the purchases and sales of these hundred thousand dollars' worth of commodities will require each of these five hundred dollars to be exchanged for commodities, on an average, two hundred times. That is, in carrying on the commerce of these hundred men for a year, their whole stock of money must be exchanged, on an average, once in a little less than two days. Or if we reckon but three hundred business days in a year, we shall find that the whole stock of money must be exchanged, on an average, once in every day and a half.

Such rapidity of exchange would be practicable enough if the holders of the coins should all part with them readily at their true and natural value, instead of holding them back in the hope of getting for them more than they were really worth. But where there was so active a demand for the coins as to require that the whole stock be sold, on an average, once in every day and a half, it is natural to suppose that the holders of the coins

would hold them back, in order to get more for them than their true and natural value. And in so far as they should do so, they would obstruct trade, and by obstructing trade obstruct and discourage production, and thus obstruct the natural increase of wealth.

II.

But suppose, now, that the number of men on this island be increased from one hundred to one thousand, and that they are all engaged in producing wheat only; each man producing ten bushels, which is all he wants for his own consumption. And suppose that each man has five dollars in gold, silver, and copper coins. What will be the price of wheat among these men, relatively to the coins? Clearly, it will have no *market* price at all, any more than it had when there were but a hundred men.

But suppose that nine hundred and ninety-nine of these thousand men leave wheat-growing, and engage each in the production of a commodity different from that produced by any one of the others. And suppose that the one who still continues to produce wheat is able, from his increased science, skill, and machinery, to produce ten thousand bushels—ten bushels for each of the thousand men—where before he produced only ten bushels for himself.

There is now just as much wheat produced as there was before. But it is now all produced by one man—nine hundred and ninety-nine thousandths of it being produced for sale—instead of being produced by a thousand men, each producing ten bushels for his own consumption.

What, now, will be the price of wheat among these thousand men? Why, being governed by the same law that has already been illustrated in the case of the hundred men, it will go on rising one cent at a time as each man leaves wheat-growing for some other pursuit, until, when nine hundred and ninety-nine shall have left wheat-growing, and shall have become purchasers of wheat, instead of producers, the price will be nine hundred and ninety-nine cents a bushel—for convenience of round numbers, say ten dollars a bushel—where before it bore no price at all.

In this state of things, then, the man who still continues to

produce wheat will produce ten thousand bushels ; worth, in the market, ten dollars a bushel, or a hundred thousand dollars in all.

Here, then, we have the price of a hundred thousand dollars for ten thousand bushels of wheat, which, when produced by a thousand different men, each producing ten bushels for his own consumption, had no *market* value at all. And the other nine hundred and ninety-nine men, we will suppose, produce each a different commodity from all the others ; the whole annual produce of each having the same market value as the wheat-grower's crop of wheat. The market value, then, of all the products of the whole thousand men will be one thousand times one hundred thousand dollars—that is, one hundred million dollars—where before, when they were all producing wheat and nothing else, their whole products had no *market* price at all.

When we consider that each producer retains for his own consumption but a thousandth part of his products (a hundred dollars' worth), and that, consequently, nine hundred and ninety-nine parts of all these products are not only to be sold, but to be sold *twice*, as they would now have to be,—that is, once by the producer to the merchant, and once by the merchant to the consumer,—we see that there will be sales to the amount of one hundred and ninety-nine million eight hundred thousand dollars—for convenience of round numbers, say two hundred million dollars—where before, when all were producing wheat, there was no such thing as a sale of a cent's worth of any thing.

These thousand men, we have supposed, had each five dollars in coins—making five thousand dollars in all—with which to make these purchases and sales of two hundred millions. How many times over will all these coins, on an average, have to be bought and sold, in order to effect these exchanges? Dividing two hundred millions by five thousand, we have the answer ; namely, *forty thousand times* ! Dividing this number by three hundred,—which we will suppose to be the number of business days in a year,—we find that, in order to make their exchanges, their whole stock of money must be bought and sold, on an average, *one hundred and thirty-three times every day* !

Thus we see that one thousand men, with such a diversity and amount of production as we have supposed, would have two thousand times as many purchases and sales to make as the one hun-

dred men. And in making these purchases and sales, we see that their whole stock of money would have to be bought and sold two hundred times oftener than would the whole stock of money of the one hundred men in making their purchases and sales of one hundred thousand dollars. We see, too, that, if we call eight hours a day,—that being the usual number of business hours,—their whole stock of money would have to be bought and sold, on an average, *sixteen times over every hour, or once in every four minutes*; whereas the whole stock of money of the one hundred men would have to be bought and sold only *once in a day and a half*; or—calling eight hours a day—*once in twelve hours*.

Such, let it be specially noticed, is the difference in the rapidity required in the purchase and sale of money in making the exchanges among a thousand men, on the one hand, and a hundred men, on the other, *altrough the thousand men have the same amount of money, man for man, as the hundred men*; the thousand men having five thousand dollars, and the hundred having but five hundred dollars.

This illustration gives some idea of the effect produced upon prices by the expansion of industry and the diversity of production. And yet the writers on money tell us that a large number of men need no more money, *man for man*, than a small number; that, if a hundred men need but five hundred dollars of money, a thousand men will, by the same rule, need but five thousand dollars.

In the case already supposed,—of the one thousand men,—how far would their five thousand dollars avail as money towards making their exchanges of two hundred million dollars? Plainly, they would avail nothing. The holders of them, seeing the necessities of the people for money, would hold back their coins, and demand so much more than their true and natural value as to put a stop substantially to all production, except of such few things as could be exchanged by barter, or as each one could produce for his own consumption.

The obvious truth is that, in order to carry on their commerce with money at its true and natural value, and consequently without obstruction or extortion from the money holders, it is necessary that these thousand men, with their increased diversity and

amount of production, should have two hundred times as much money, *man for man*,—and two thousand times as much in the aggregate,—as was necessary for the one hundred men, as before supposed.

In other words, the thousand men have two hundred million dollars of sales to make, where the hundred men had but one hundred thousand. Dividing two hundred million by one hundred thousand, we find that the thousand men, with such diversity and amount of production as we have supposed, have two thousand times as many sales to make as the one hundred had, and consequently that they require two thousand times as much money as did the one hundred.

III.

But to show still further the ratio in which diversity of industry tends to increase the prices of commodities, *relatively to any fixed standard*, let us suppose that the number of men on this island be still further increased from one thousand to ten thousand. And suppose that all these ten thousand are engaged in producing wheat alone; each producing ten bushels for his own consumption, that being all he wants. And suppose they have each five dollars in gold, silver, and copper coins. What will be the price of wheat, relatively to the coins? Clearly, it will have no price at all, not even so much as one cent a bushel.

But suppose that all but one of these ten thousand men should leave wheat-growing, and engage in other industries; each one producing a different commodity from all the others. And suppose that the one who still continues wheat-growing has acquired such science, skill, and machinery, that he is now able to produce a hundred thousand bushels—that is, ten bushels each for ten thousand men—where before he only produced ten bushels for himself.

What will now be the price of wheat among these ten thousand men? Why, by the same law that has been already illustrated it will be ninety-nine dollars and ninety-nine cents a bushel—for convenience of round numbers, say one hundred dollars a bushel—where before it had no *market* value at all.

And yet there is just as much wheat produced as there was

before, and every man gets just as much wheat to eat as he had before, when all were producing wheat.

In this state of things, the one hundred thousand bushels of wheat produced by one man at a hundred dollars a bushel—which will then be its market value—are worth one hundred thousand times one hundred dollars; that is, ten million dollars. And suppose that all the other nine thousand nine hundred and ninety-nine men are each engaged in an industry as profitable as that of the remaining wheat-grower. The aggregate production of the whole ten thousand men will now have a market value equal to ten thousand times ten million dollars; that is, one hundred thousand million dollars.

And if we suppose that all these commodities are to be sold ¹ *three* times over,—that is, once by the producer to the wholesale dealer, once by the wholesale dealer to the retailer, and once by the retailer to the consumer,—we shall see that there are to be sales equal to three hundred thousand million dollars, where before, when all were producing wheat and nothing else, there was no sale of a cent's worth of any thing, and no *market* value at all for any thing.

Now suppose that the coins which these men had have remained fixed at the same value they had when the men were all producing wheat. How many times over, then, must they necessarily be bought and sold in the course of a year, in order to effect the purchase and sale of these three hundred thousand millions—or one hundred thousand millions three times over—of property that are to be exchanged?

There are ten thousand men, each having five dollars in coins; that is, fifty thousand dollars in all. Dividing three hundred thousand millions by fifty thousand, we find that the whole of these fifty thousand dollars in coins *must be bought and sold six million times!* Six million times annually, to effect the exchanges of the products of ten thousand men!

Dividing six million by three hundred (which we will suppose to be the number of business days in a year), we find that, on an average, their whole stock of money must be bought and sold

¹ All but ten millions—a ten thousandth part of the whole—would have to be sold, since each man would retain for his own consumption only a ten thousandth part of what he produced; namely, one thousand dollars' worth.

twenty thousand times over every day. Or supposing the business day to be eight hours, the coins would all have to be bought and sold twenty-five hundred times over every hour; equal to forty-one and two-thirds times every minute.

And this happens, too, when the ten thousand men have the same amount of coin, *man for man*, as the one hundred and the one thousand men had in the cases before supposed.

Thus we see that, with such a diversity and amount of production as we have supposed, the exchanges of the ten thousand men would require that their whole stock of money should be bought and sold one hundred and fifty times oftener than the whole stock of the one thousand men, and thirty thousand times oftener than the whole stock of the one hundred men.

We also see that, in the cases supposed, the ten thousand men, having three hundred thousand millions of exchanges to make, have fifteen hundred times as many as the one thousand men, who had but two hundred millions; and that they have three million times as many exchanges to make as the one hundred men. Consequently the ten thousand men require fifteen hundred times as much money as the one thousand men, and three million times as much money as the one hundred men.

IV.

According to the foregoing calculations, the ratio of increase required in the volume of money is this: Supposing the diversity and amount of production to keep pace with the increase in the number of men, and supposing their commodities to be sold but *once*,—that is, directly from producer to consumer,—a hundred men would require a thousand times as much money as ten men; a thousand men would require a thousand times as much money as a hundred men; ten thousand men would require a thousand times as much money as a thousand men; and so on.

But inasmuch as, in the case of a thousand men, their commodities would have to be sold *twice*,—that is, once by the producer to the merchant, and once by the merchant to the consumer,—the thousand men would require *two* thousand times as much money as the hundred men. And inasmuch as, in the case of the ten thousand men, their commodities would have to be

sold *three times* over,—that is, once by the producer to the wholesale dealer, once by the wholesale dealer to the retailer, and once by the retailer to the consumer,—the amount of money required, instead of being either one thousand or two thousand times as much as in the case of the one thousand men (whose commodities were sold but twice), would be one and a half thousand times (as three sales are one and a half times as much as two)—that is, fifteen hundred times—as much as in the case of the one thousand men.

Stating the results of the preceding calculations in the simplest form, we find that different numbers of men, having a diversity and amount of production corresponding to their numbers, in making their exchanges with each other, require money in the following ratios, relatively to each other; namely,—

10 men require	\$100
100 men require	100,000
1,000 men require	200,000,000
10,000 men require	300,000,000,000

But as the same money could be used many times over in the course of a year, they would not need an amount of money equal to the amount of their annual exchanges. If, then, we suppose the aggregate of their annual exchanges to be as above, and their whole stocks of money to be used three hundred times over in a year,—that is, once a day, calling three hundred the number of business days in a year,—we find that the stocks of money required would be as follows:—

10 men would require	\$.33 $\frac{1}{3}$
100 men would require	333.33 $\frac{1}{3}$
1,000 men would require	666,666.33 $\frac{1}{3}$
10,000 men would require	1,000,000,000.00

Or, to state the case in still another form, supposing their aggregate annual exchanges to be as above, and supposing their whole stocks of money to be bought and sold three hundred times over in the year, the money required, *per man*, would be as follows:—

10 men would require	\$.03½ each.
100 men would require	3.33½ each.
1,000 men would require	666.66 each.
10,000 men would require	100,000.00 each.

If any body thinks he can dispute these figures, let him attempt it. If they cannot be disputed, they settle the law of prices.

V.

The foregoing suppositions are, *first*, that the ten thousand men came finally to have ten thousand different *kinds* of commodities where they originally had but one,—namely, wheat; *secondly*, that they finally came to have ten thousand times as much wealth, *in quantity*, as they had originally, when all were producing wheat; *thirdly*, that wheat, which at its first sales brought only one cent a bushel, came afterwards to sell for ten thousand cents a bushel,—although the amount of wheat produced, and the supply of wheat for each individual, were the same in the one case as in the other; *fourthly*, that the same effect is produced upon the prices of all the rest of the ten thousand different kinds of commodities as upon the price of wheat; and, *fifthly*, that the annual sales made by the ten thousand men amounted finally to three hundred thousand million dollars, where their first sales had amounted to but ten cents,—the amount which the first man who left wheat-growing paid for his yearly supply of ten bushels.

It is not necessary to suppose that such a diversity and amount of production will ever be realized in actual life, although that is not impossible. It is sufficient that these figures give the *law* that governs prices, and consequently demonstrate that a constant and enormous increase of money must be necessary to keep pace with the increase of population, wealth, and trade, if we wish to give free scope to diversity and amount of production.

Unless money should be increased so as to keep pace with this increased demand, the result would be, *first*, obstruction to trade; *secondly*, obstruction to, and discouragement of, industry; and *thirdly*, a corresponding obstruction to the increase of wealth.

In fact, unless the amount of money were increased, these

hundred men, thousand men, and ten thousand men, instead of having a hundred, a thousand, or ten thousand different *kinds* of commodities, would advance very little beyond the state they were in when all were producing wheat and nothing else. Some feeble attempts at other industries might possibly be made, but their money, like the shells and wampum of savages, would aid these attempts but slightly; and the men, unless they invented some other money, would either remain absolute savages, or attain only to a very low state of barbarism.

The practical question, then, is whether it is better that these ten thousand men should remain mere savages, scratching the earth with rude sticks and stones to produce each ten bushels of wheat, or whether it is better that they should all have the money—which stands in political economy for all the ingenuity, skill, science, machinery, and other capital which money can buy—that may be necessary to enable them to produce, in the greatest possible abundance, and of the greatest possible excellence, all the ten thousand commodities which will contribute to their happiness.

A full discussion of this subject would require much more space than can here be given to it. It may perhaps be continued at a future time, if that should be necessary. But enough has doubtless now been said to show the general *law* that governs prices, and consequently to show the necessity for an immense increase of money; an increase dependent upon the diversity and amount of production and the natural laws of trade applicable thereto; such an increase as no legislation can ascertain beforehand, or consequently prescribe.

LYSANDER SPOONER.

GOLD AND SILVER

AS

STANDARDS OF VALUE:

*THE FLAGRANT CHEAT IN REGARD
TO THEM.*

By **LYSANDER SPOONER.**

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GOLD AND SILVER AS STANDARDS OF VALUE:

THE FLAGRANT CHEAT IN REGARD TO THEM.

ALL the usurpation, and tyranny, and extortion, and robbery, and fraud, that are involved in the monopoly of money are practised, and attempted to be justified, under the pretence of maintaining the standard of value. This pretence is intrinsically a false one throughout. And the whole motive for it is to afford some color of justification for such a monopoly of money as will enable the few holders of gold and silver coins (or of such other money as may be specially licensed and substituted for them) to extort, in exchange for them, more of other men's property than the coins (or their substitutes) are naturally and truly worth. That such is the fact, it is the purpose of this article to prove.

In order to be standards by which to measure the values of other things, it is plain that these coins must have a fixed and definite — or, at least, something like a fixed and definite — value of their own; just as a yard-stick, in order to be a standard by which to measure the length of other things, must necessarily have a fixed and definite length of its own; and just as a pound weight, in order to be a standard by which to measure the weight of other things, must necessarily have a fixed and definite weight of its own. It is only because a yard-stick has a fixed and definite length of its own that we are enabled to measure the length of other things by it. It is only because a pound weight has a fixed and definite weight of its own that we are enabled to measure the weight of other things by it. For a like reason, unless gold and silver coins have fixed and definite — or, at least, something like fixed and definite — values of their own, they can serve no purpose as standards by which to measure the values of other things.

The first question, then, to be settled is this, — namely, what is that fixed or definite value (or something like a fixed or definite value) which gold and silver coins have, and which enables them to be used as standards for measuring the values of other things ?

The answer is that the true and natural market value of gold and silver coins is that value, and only that value, which they have for use or consumption as metals, — that is, for plate, watches, jewelry, gilding, dentistry, and other ornamental and useful purposes. *This is the value at which they now stand in the markets of the world*, as is proved by the fact that doubtless not more than one-tenth, and very likely not more than one-twentieth, of all the gold and silver in the world (out of the mines) is in circulation as money. All the rest is in plate, watches, jewelry, and the like ; except that in some parts of the world, where property in general is unsafe, large amounts of gold and silver are hoarded and concealed to prevent their being taken by rapacious governments, or public enemies, or private robbers. Leaving these hoards out of account, doubtless nine-tenths, and very likely nineteen-twentieths, of all the gold and silver of the world are in other forms than coin.

And as fast as new gold and silver are taken out of the mines, they are first carried to the mints, and made into coins ; then they are carried all over the world by the operations of commerce, and given in exchange for other commodities. Then the goldsmiths and silversmiths, in every part of the world (unless among savages), are constantly taking these coins and converting them into such articles of plate, jewelry, and the like as they have call for. In this way the annual crops of gold and silver that are taken from the mines are worked up into articles for use as regularly as the annual crops of breadstuffs are consumed as food, or as the annual crops of iron, and cotton, and silk, and wool, and leather are worked up into articles for use.

And when the coins have thus been wrought into articles for use, they for ever remain so, unless these articles become unfashionable, or for some other reason undesirable. In that case, they are sent again to the mint, and converted again into coin ; then put into circulation again as money ; then taken out of circulation again by the goldsmiths and silversmiths, and wrought

again into plate, jewelry, and the like, for use. *They remain in circulation as money only while they are going from the mint to the goldsmiths and silversmiths.* And this route is a very short and quick one. An old coin is rarely seen, unless it has been hoarded.¹

Unless new gold and silver were being constantly taken from the mines, and old and unfashionable plate and jewelry were being constantly recoined, these metals would soon disappear altogether as money.

All this proves that they have no true or natural value as money beyond their value for use or consumption as metals. *If they were worth more as money than they are for use or consumption as metals, they would, after being once coined, remain forever in circulation as money,* instead of being taken out of circulation and appropriated to these other uses.

In Asia, where these metals have been accumulating from time immemorial, and whither all the gold and silver of Europe and America — except so much as is caught up and converted into plate, watches, jewelry, etc., — is now going, and has been going for the last two thousand years,² very small amounts only are in circulation as money. Instead of using them as money, the people — or so many of them as are able — cover themselves with jewelry, fill their houses with plate, and their palaces and temples with gold and silver ornaments. Instead of investing their surplus wealth in fine houses, fine clothing, fine furniture, fine carriages, etc., as Europeans and Americans do, it is nearly all invested in gold, silver, and precious stones. In every thing else they are miserably poor. Even the rich are so poor that they cannot afford to indulge, as we do, in such luxuries as costly dwellings, clothing, furniture, and the like, which require frequent repairs, or quickly decay, or wear out with use. Hence their preference for ornaments of gold, silver, and precious stones, which never wear out, and retain their value for ever.

In China, which has at least a fourth, and perhaps a third, of all the population of the globe, gold and silver are not coined at

¹ Old coins — those that are no more than twenty, thirty, or fifty years old — are so rare that they sell for high prices as curiosities.

² That is, from Europe for two thousand years, and from America from its first discovery by Europeans.

all by the Government. The only coin that is coined by the Government, and that is in circulation as money, is a small coin, of a base metal, worth no more than a fifth, sixth, or seventh of one of our cents. This coin is the common money of the people. And gold and silver are not in circulation at all as money, except some few foreign coins, and some plates, bars, or nuggets of gold and silver that pass by weight, and are generally weighed whenever they pass from one person to another.

In India, among two hundred millions of people, although the few rich have immense amounts of gold and silver plate and ornaments, very little gold and silver is in circulation as money. The mass of the people have either no money at all, — taking their pay for their labor in rice or other articles of food, — or have only certain shells, called cowries, of which it takes from fifty to a hundred to be worth one of our cents.¹

In still other parts of Asia, gold and silver have little more circulation as money than in China and India. And yet Asia, I repeat, is the great and final market whither all the gold and silver of Europe and America — except what has been caught up and converted into plate, jewelry, and the like — is now going, and has been going for two thousand years, and whence they never return.

In Europe and America, the great increase of gold from the mines of California and Australia within the last thirty years has added only moderately to the amount of gold in circulation as money. But it has added very largely to the use of gold for plate, watches, jewelry, and the like. This greatly increased consumption of gold for ornamental purposes in England and America, and the increased flow of gold to Asia, to be there devoted to the same uses, account for the fact — which to many persons seems unaccountable — that the great amounts of gold taken from the mines have added so little to the amount in circulation as money.

And even though the amounts of gold and silver taken from the mines should hereafter be still greater — no matter how much greater — than they ever have been heretofore, they would all be disposed of in the same way; namely, first be converted

¹ I believe the English have recently attempted to introduce a small copper coin, called an *anna*; but what is its precise value, or what the number in circulation, I do not know.

into coin and put into circulation as money, and then taken out of circulation and converted into plate, jewelry, and the like. *They would exist in the form of money only while they were performing their short and predestined journey from the mint to the goldsmiths and silversmiths.*

These facts — let it be emphatically repeated — prove beyond all color of doubt, or possibility of refutation, that the true and natural market value of gold and silver coins is that value, and only that value, which they have for use or consumption as metals. *Consequently it is at that value, and only at that value, that they have the least claim to be considered standards by which to measure the value of any thing else.* And any body who pretends to write about the value of money from any other basis than this is either an ignoramus or an impostor, — probably the latter.

II. But that gold and silver coins can have no true or natural market value as money beyond their value for use or consumption as metals will still more clearly appear when we consider why it is that they are in demand at all as money ; why it is that they have a market value ; and why it is that every man will accept them in exchange for any thing he has to sell.

The solution of these questions is that the original, primal source of all the demand for them as money — the essential and only reason why they have market value, and sell so readily in exchange for other commodities — is simply because they are wanted *to be taken out of circulation, and converted into plate, jewelry, and other articles of use.*

They are wanted for these purposes by all the people on the globe. Hence they are carried at once from the countries in which they are first obtained — the mining countries — to all the other countries of the world as articles of commerce, and given in exchange for such other commodities as the holders of them prefer for the gratification of their wants and desires.

If they were not wanted to be taken out of circulation and wrought into articles of use, they would have no market value as money, and could not circulate at all as money. No one would have any motive to buy them, and no one would give any thing of value in exchange for them.

The reason of this is that gold and silver, in the state of coin,

cannot be used.[†] Consequently, in the state of coin, they produce nothing to the owner. A man cannot afford to keep them as an investment, because that would be equivalent to losing the use of his capital. He must, therefore, either exchange them for something he can *use*—something that will be productive and yield an income; or else he must convert them into plate, jewelry, etc., in which form he can use them and get an income from them.

It is, therefore, only when gold and silver coins have been wrought up into plate, watches, jewelry, etc., that they can be said to be *invested*; because it is only in that form that they can be *used*, be productive, or yield an income.

The income which they yield *as investments*—that is, the income which they yield when *used* in the form of plate, jewelry, etc.—is yielded mostly in the shape of *a luxurious pleasure*—the pleasure of gratified fancy, vanity, or pride.

This pleasure is the same as that which is derived from the use of ornaments generally; such as feathers, and ribbons, and laces, and precious stones, and many other things that have no value at all as food, clothing, or shelter, yet bring great prices in the market simply for their uses as ornaments.

The amount of this income we will suppose to be six per cent. *per annum* on their whole value. That is to say, a person who is able, and has tastes in that direction, will give six dollars a year for the simple *pleasure* of *using* one hundred dollars' worth of plate, jewelry, etc.

This six dollars' worth of pleasure, then, or six dollars' worth of gratified fancy, vanity, or pride, is the annual income from an investment of one hundred dollars in gold and silver plate, jewelry, and the like.

This, be it noticed, is the *only income* that gold and silver are capable of yielding; because plate, jewelry, and the like are the only forms in which they can be used. So long as they remain

[†] The sale of them as money is not a use of them any more than the sale of a horse is a use of the horse. For convenience in speech, we call the buying and selling of money a use of it, but it is no more a use of it than the buying and selling of any other merchandise is a use of such merchandise. When a man says he wants money to *use*, he means only that he wants to part with it,—that he wants either to pay a debt with it, or to give it in exchange for something that he can use or consume.

in coin, they cannot be used, and therefore cannot yield an income.

It is, then, only this six per cent. annual income, this six dollars' worth of pleasure, which gold and silver yield as ornaments, — that is, as investments, — that is really the cause of all the demand for them in the market, and consequently of their being bought and sold as money.

By this it is not meant that every man who takes a gold or silver coin as money takes it because he *himself* wants a piece of gold or silver plate or jewelry; nor because he *himself* intends or wishes to work it into plate or jewelry, — for such is not the case probably with one man in a thousand, or perhaps one man in ten thousand, of those who take the coin. Each man takes it as money simply because he can sell it again. But he can sell it again solely because some other man wants it, or because some other man will want it, in order to convert it into articles for use. He can sell it solely because the goldsmith, the silversmith, the dentist, the gilder, etc., will *sometime* come along and buy it, *take it out of circulation*, and work it up into some article for consumption, — that is, for use.

This final consumption or use, then, is the main-spring that sets the coins in circulation, and keeps them in circulation, as money.

It is solely the consumption or use of them, in other forms than coin, that creates any demand for them in the market as money.

It is, then, only the value which gold and silver have as productive investments in articles of use, — in plate, watches, jewelry, and the like, — that creates any demand for them, or enables them to circulate as money.

And since this value which the coins have for use or consumption as metals is the only value that enables them to circulate at all as money, *it is plain that it necessarily fixes and limits their true and natural value as money.* Consequently any body who gives more for them as money than they are worth for use or consumption as metals gives more for them than they are worth for any purpose whatever, — more, in short, than their true and natural market value.

We all can understand that, if wheat were to circulate as

money, it could have no more true or natural market value as money than it had for use or consumption as food ; since it would be its value for food alone that would induce anybody to accept it as money. All the wheat that should be in circulation as money would be destined to be taken out of circulation, and consumed as food ; and if anybody should give more for it as money than it was worth for food, he, or some subsequent owner, would have to submit to a loss, whenever the wheat should come to be consumed as food.

For these reasons, the wheat as money could be no true or natural equivalent for any commodity that had more true or natural market value for use or consumption than the wheat.

So anybody can understand that, if silk, wool, cotton, and flax were to circulate as money, they could have no more true or natural market value as money than they had for use or consumption for clothing, or other analogous purposes. Their value for these other purposes would alone give them their value as money. Of course, then, their true and natural market value as money would be fixed and limited by their value for these other uses. They could plainly have no greater value as money than they had for clothing and other articles of use. As they would all be destined to be taken out of circulation, and converted into clothing or other articles of use, it is plain that, if anybody should give more for them as money than they were worth for clothing and other articles of use, he, or some subsequent owner, would have to submit to a loss whenever they should come to be converted into clothing, or any other article of use.

The same reasons that would apply to wheat, and silk, and wool, and cotton, and flax, if they were to circulate as money, and that would fix and limit their value as money, apply equally to gold and silver coins, and fix and limit their value as money.

We are brought, therefore, to the same conclusion as before, — namely, that the value which the coins have for use or consumption as metals is their only true and natural value as money. Consequently, this value which they have as metals is the value, and the only value, *at which they can be said to be standards* by which to measure the value of any thing else.

III. Assuming it now to be established that the true and natural market value of gold and silver coins as money is absolutely

fixed and limited by their value for use or consumption as metals, and that their value for use or consumption as metals is the only value at which they can be called standards for measuring the values of other things, we come to another proposition, — namely, that the use or circulation of any possible amount of paper money has no tendency whatever to reduce the coins below their true and natural market value as metals, or, consequently, to diminish their value as standards.

Plainly the paper can have no such power or tendency, *because the paper does not come at all in competition with the coins for any of those uses which alone give them their value.* We cannot make a watch, a spoon, a necklace, or an ear-ring out of the paper, and, therefore, the paper cannot compete with the coins for those uses. *Consequently it cannot diminish their market value for those uses, or — what is the same thing — their value as standards.*

If the coins were never used at all as money, they would have the same true and natural market value that they have now. Their use or circulation as money adds nothing to their true and natural market value as metals, and their entire disuse as money would take nothing from their true and natural market value as metals. Consequently it would not diminish their value *as standards.* In other words, it would not reduce the coins below their true and natural value as standards.

Every dollar's worth of other vendible property in the world has precisely the same amount of true and natural market value as has a dollar in coin. And if every dollar's worth of other vendible property was bought and sold as money in competition with the coins, the true and natural market value of the coins would not be lessened thereby. They would still have their true and natural amount of market value, — that is, their value for plate, jewelry, and the like, — the same as though all this other property were *not* bought and sold in competition with them. The coins and all other property would be bought and sold as money only at their true and natural market values, respectively, *for their different uses.* One dollar's worth of any one kind of property would have the same amount of true and natural market value for its appropriate use that a coin, or any other dollar's worth of property, would have for its appropriate use. But none of them would have any additional value on account of their being bought and sold as money.

Now, all the other vendible property of the world cannot be actually cut up into pieces or parcels, each capable of being carried about in the pocket, and each having the same amount of true and natural market value as a dollar in coin. But it is not only theoretically possible, but actually practicable, that nearly or quite all this other vendible property should be represented by contracts on paper, — such as certificates, notes, checks, drafts, and bills of exchange, — and that these contracts shall not only have the same value with the coins in the market as money, but that, as money, they generally shall be preferred to the coins.

These contracts are preferred to the coins as money not only because they are more convenient, but also because we can have so many times more of them.¹

Every *solvent* piece of paper that can circulate as money — whether it be a certificate, note, check, draft, bill of exchange, or whatever else — represents property existing *somewhere* that is legally holden for the redemption or payment of the paper, and that can either be itself delivered in redemption of it, or be otherwise made available for its payment. And if every dollar's worth of such property in the world could be represented in the market by a contract on paper promising to deliver it on demand, and if every dollar's worth could be delivered on demand in redemption of the paper that represented it, the world then could have an amount of money equal to its entire vendible property. And yet clearly every dollar of paper would be equal in value to a dollar of gold or silver. Clearly, also, all this paper would do nothing towards reducing gold and silver coins below their true and natural market values, — that is, their values for use or consumption *as metals*.

The gold and silver coins would be good standards — as good perhaps as any that can be had — by which to measure the values of all this other property. But a gold dollar, or a silver dollar, would have no more true or natural market value than would each and every other dollar's worth of property that was measured by it.²

¹ We can have at least a hundred and fifty times as many paper dollars as we can gold and silver dollars. And yet every one of these paper dollars, if it represents a dollar's worth of actual property that can either be itself delivered in redemption of the paper, or can otherwise be made available for the redemption of the paper, will have the same value in the market as the coins.

² To say that a gold dollar, or a silver dollar, has any more true or natural market

Under such a system of currency as this, there could evidently be no inflation of prices, relatively to the true and natural market values of gold and silver. Such a currency would no more inflate the prices of one thing than of another. It would just as much inflate the prices of gold and silver themselves as of any thing else. Gold and silver would stand at their true and natural market values *as metals*; and all other things would also stand at their true and natural values for their respective uses.

No more of this currency could be kept in circulation than would be necessary or convenient for the purchase and sale of commodities at their true and natural market values, relatively to gold and silver; for if at any time the paper was not worth as much, or would not buy as much, in the market as gold or silver, it would be returned to the issuers for redemption in gold and silver, and thus be taken out of circulation.¹

Thus we are brought again to the conclusion that it is only when gold and silver coins are suffered to stand at their true and natural values as metals—which are also their true and natural values as standards—that they can be said to measure truly the values of other things.

At their values as metals the coins serve as standards by which to measure the value of all other *money*, as well as of all other property. But at any other than their true and natural values as metals they will naturally and truly measure the value of nothing whatever,—neither of other money, nor of any thing else.

IV. We come now to still another proposition,—namely, that

value than any other dollar's worth of vendible property is just as absurd as it would be to say that a yardstick has more length than a yard of cloth or a yard of any thing else; or as it would be to say that a pound weight has more weight than a pound of sugar or a pound of stone.

¹ The bankers have no motive to issue more of their notes than are needed for circulation at coin prices; because their only motive for issuing their notes at all is to get interest on them *while they are in circulation*. If they issue no more than are needed for circulation at coin prices, the notes, as a general rule, will remain in circulation until they come back to the bankers in payment of notes discounted; and the bankers will have no occasion to redeem them otherwise than by receiving them in payment of notes discounted. But if the bankers issue more notes than are needed for circulation at coin prices, the surplus notes will come back for redemption in coin before they have earned any interest. Thus the bankers will not only fail of getting any profit from their issues, but will subject themselves to the necessity and inconvenience of redeeming their notes with coin. They, therefore, have no chance of profit, but necessarily subject themselves to inconvenience, and perhaps loss, if they issue more notes than are wanted for circulation at coin prices.

no possible amount of paper money that can be put in circulation *in any one country* that is open to free commerce with the rest of the world can affect the true or natural market value of gold or silver coins *in that country*.

If the coins should be entirely excluded from circulation by the paper, they still would have the same true and natural market value as if they were the only money in circulation; for, in both cases alike, their true and natural market value *in that country* would be determined by their value *in the markets of the world*.

The coins can be carried from any one part of the world to any other part at so small an expense that they can have no appreciably greater market value in any one part than in any other. And their true and natural market value in all parts of the world depends upon the general consumption of them as metals, and not at all upon their circulation as money. They are everywhere simply merchandise in the market of the world, waiting for consumption, like any other merchandise.

This fact—that the disuse of the coins as money in any one country cannot reduce their value in that country below their value in the markets of the world—was fully tested in the United States for fourteen or fifteen years,—that is, from 1861, or 1862, to 1876. During the whole of that time gold and silver were wholly absent from general circulation as money. Yet they had the same value here as metals that they had in other parts of the world either as money or as metals. And they were as much used during that time for plate, watches, jewelry, and the like as they ever were.

The people of the United States comprise not more than a twenty-fifth—perhaps not more than a thirtieth—part of the population of the globe. And if they were to abandon the use of gold and silver entirely, not only for money, but for plate, watches, jewelry, and every other purpose whatever; *if they were even to banish the metals themselves from the country*,—they thereby would reduce their value in the markets of the world by not more than a twenty-fifth, or perhaps a thirtieth, of their present value. How absurd, then, to pretend that the simple disuse of them as money by one twenty-fifth, or one-thirtieth, part of the population of the globe can have any appreciable effect upon their market value the world over!

These facts prove that all restrictions imposed by law in any one country upon all other money than gold and silver coins, under pretence of maintaining the true standard of value in that country, are the merest farces, not to say the merest frauds; that they have no tendency of that kind whatever; that they only serve to derange the standard in that country by establishing a monopoly of money, and giving a monopoly and extortionate price to the coins in that country, instead of suffering them to stand at their true and natural value, both as metals and as standards, and also at the same value that they have in the markets of the world.

Furthermore, if any or all other nations have been wicked and tyrannical enough to give, or attempt to give, a monopoly and extortionate price to gold and silver coins by restrictions upon any or all other money, that is no reason why we should be guilty of the same crime. So far as such restrictions may have affected the price of the coins in the markets of the world, we may not be able to save either ourselves or the rest of mankind from the natural consequences of such a monopoly. But we are under no more obligation to follow the bad example of these nations in this matter than in any other. Because other nations enslave and impoverish their people by depriving them of all money and all credit by establishing a monopoly of money, that is no reason why we should do so. All our efforts in this direction do nothing towards making the coins better standards of value than they otherwise would be.

V. It is an utter absurdity to talk about gold and silver coins having any more true or natural value as money than they have for use or consumption as metals. To say that they have more true or natural market value as money than they have for use as metals is equivalent to saying that they have more true and natural value *for being bought and sold* than they have as commodities for use or consumption. And to say that they have more true or natural market value *for being bought and sold* than they have as commodities for use or consumption is just as absurd as it would be to say that houses, and lands, and cattle, and horses, and food, and clothing, have more true and natural market value *for being bought and sold* than they have as commodities for use

VI. Finally, the true and natural market value of any and every vendible thing whatever is that value, and only that value, which it will maintain in the market in competition with any and all other vendible things that can be brought into the market in competition with it. This is the only rule by which the true and natural market value of any vendible thing whatever can be ascertained; and this rule applies as much to gold and silver coins as to any other commodities whatever.

Tried by this rule, we know that the coins will bear no higher value in the market as money than they will for use or consumption as metals; because mankind have other money which they prefer to the coins, and which—if permitted to do so—they will always buy and sell as money rather than give more for the coins as money than they are worth for use or consumption as metals.

VII. To give color to the idea that *solvent* notes, promising to pay money on demand, tend to reduce the standard of value below that of the coins, the advocates of that idea are accustomed to say *that such notes cost nothing, and have no value in themselves*; and, consequently, that to suffer them to be bought and sold as money in the place of coin, and as if they were of equal value with coin, necessarily depreciates the market value of the coin at least for the time being; that, in other words, it reduces the standard of value for the time being.

The answer to this pretence is that nobody claims or supposes that a promissory note, *simply as so much paper*, has any value. But the contract written upon the paper—if the note be a solvent one—is in the nature of a lien upon so much material property of the maker of the note as is sufficient to pay the note, and as can be taken by legal process and sold for payment of the note.

Every *solvent* promissory note—whether it circulates as money, or not—is in the nature of a lien upon the property of the maker,—that is, upon the property that is legally holden for the payment of the note, and that can be taken by legal process, and applied to the payment of the note.

The value of the note, therefore, is not in the mere paper as paper, but in the property on which the contract written upon paper gives the holder a lien for the amount of the note.

In this respect, a banker's note, circulating as money, is just like any other man's note that is locked up in the desk or safe of the holder. The fact that it is bought and sold from hand to hand as money—that is, in exchange for other property—makes no change whatever in the character or value of the note.

In the case of a mortgage upon land, the value is not in the mere paper, as paper, upon which the mortgage is written, but in the land on which the mortgage gives the mortgagee a lien for the amount of his debt. So in the case of a note, if it be a *solvent* one, it is in the nature of a lien upon, or conditional title to, the property of the maker of the note,—property that is legally holden for the payment of the note, and that can be taken by legal process, and applied to the payment of the note.

To say that such a note has no value in itself is just as absurd as it would be to say that a mortgage on land has no value in itself. Everybody knows that neither the mortgage nor the note has any value as mere paper; that the value is in the land, or the property, that is holden, or liable to be taken, for the payment of the mortgage or note.

In every case where material property is represented by paper,—as in the case of a deed, mortgage, certificate of stock, certificate of deposit, check, note, draft, or whatever else,—the value is in the property represented, and not in the paper that represents it. The paper has no value, except as it contains the evidence of the right to the property represented by it. And this is as true in the case of what is called *paper money* as in all other cases where property is represented by paper. The value of the money is not in the paper as paper, but in the property represented by the paper, and to which, or on which, the contract written on the paper gives a title, claim, or lien. The property that is represented by the paper, and which constitutes the real money, is just as real substantial property as is gold, or silver, or any other money or property whatever. And it is really an incorrect and false use of the term to call such money *paper money*, as if the paper itself were the real money; or as if there were no money, and no value, outside of the paper. A dollar's worth of land, wheat, iron, wool, or leather, is just as much a dollar *in real value* as is a dollar of gold or silver; and when represented by paper, it is just as real money, so far as value is concerned, as is gold and silver.

Every *solvent* promissory note is a mere representative of, or lien upon, or conditional title to, material property in the hands of the maker; property that has an equal value with coin; that is legally holden for the payment of coin; and that can be taken by legal process, and sold for coin, which must be applied to the payment of the note. When, therefore, a man sells a *solvent* promissory note, he sells a legal title to, or claim to, or lien upon, so much actual property in the hands of the maker of the note as is necessary to pay the note; property which men have just as much right to buy and sell from hand to hand as money, if they so please, — that is, in exchange for other property, — as they have to buy and sell coin, or any other money that can be invented.

And it matters not how many of these notes are in circulation as money, provided they are all solvent; since, in that case, each note represents a separate piece of property from all the others; each separate piece of property being equal in value to coin, and capable of insuring the payment of coin. If, therefore, all the material wealth of a country were thus represented by paper, the paper, — that is, the property represented by the paper — would all have the same value as the same nominal amount of coin; and the circulation of all this paper as money would do nothing towards reducing the coins below their true and natural value *as metals*, or below their value in the markets of the world. Consequently, it would do nothing towards depreciating the true and natural standard of value. All this other money would have the same value, dollar for dollar, as the coin; and the true and natural value of the coins as standards of value would not be changed.

There certainly can be no question that a *solvent* promissory note that circulates from hand to hand as money — which everybody is willing to accept in payment for other property — is just as legitimate a piece of paper, and has just as much value as a lien, or as evidence of a lien, upon the property that is holden for its payment, as any other promissory note whatever. If such a note be not legitimate, if it have no value, then no promissory note whatever is legitimate, or has value. And if the issue of such notes for circulation as money — that is, among those who voluntarily give and receive them in exchange for other property — be illegitimate, and ought to be suppressed, then all promis-

sory notes whatsoever are equally illegitimate, and ought to be suppressed. But if any one such note, which any one man, or company of men, can make, be legitimate, then any and every other similar note, which any other man, or company of men, can make, is equally legitimate.

VIII. But to hide the deception that is attempted to be practised under pretence of maintaining the standard of value, it is said that there is but a small amount of coin in comparison with the notes that can be put in circulation as money; and that it is therefore impossible that any great number of notes, promising to pay coin *on demand*, can be solvent; that the property that is nominally holden to pay the notes cannot be made to bring any more coin than there really is; and that, therefore, the notes, if more numerous than the coins, must be spurious; that they promise to pay something which the makers do not possess, and which they consequently are unable to pay, no matter how much other property they may have.

One answer to this argument is that, on this principle, no promissory note whatever—whether issued for circulation or not—could ever be considered solvent, unless the maker kept constantly on hand an equivalent amount of coin with which to redeem it. Whereas we know that all notes are considered solvent, provided the makers have sufficient property to bring the coin *when it is likely to be called for*. And this is the principle on which all ordinary commercial credit rests.

Another answer to this argument is that, however valid it may be against notes that are either not solvent, or not known to be solvent,—that is, not issued on the credit of property sufficient to pay the notes,—it has no weight against notes that are solvent, and that are known to be solvent; because, first, if the notes are solvent, and are known to be solvent, the holders usually prefer them to coin, and therefore seldom present them for redemption in coin; and because, secondly, the notes issued for circulation are issued by discounting other solvent notes that are to be held by the bankers, and the circulating notes are, therefore, all wanted for paying the notes discounted, and, with rare exceptions, will all come back to the bankers in payment of the notes discounted; and it is, therefore, only rarely that any other redemption of the circulating notes is called for.

The bankers soon learn by experience how often coin will be called for, and how much, therefore, it is necessary for them to keep on hand for such contingencies. This amount a due regard for their own interests will induce them to keep on hand, because they cannot afford to be sued on their notes, or to have their credit injured by not meeting their notes when coin is demanded.¹

The opposers of a *solvent* paper currency either ignorantly overlook, or craftily and dishonestly attempt to keep out of sight, the vital fact that, in all safe, legitimate, solvent, and prudent banking, all the notes issued for circulation will be wanted to pay the notes discounted, and will come back to the banks in payment of notes discounted; and that it is only rarely that any other redemption—redemption in coin—will be demanded or desired.

The pretence, therefore, that no more notes can be honestly issued for circulation than there is coin kept constantly on hand for their redemption is nothing but a pretence, since, however great the amount of notes issued,—provided they be solvent ones,—it is only a mere fraction of them—probably not so much even as one per cent.—that will ever have any call to be redeemed in coin.

IX. But it is often said that the panics which have usually occurred after any considerable increase of money by the issue of paper are proof that the paper was *not* equal in value, dollar for dollar, with coin. Those who say this claim that the panics are caused by the attempts of the holders of the notes to convert them into coin. These attempts have taken the form of runs upon the banks for the redemption of their notes in coin. And it is claimed that these runs upon the banks for coin are proof that the notes are *not* equal in value, dollar for dollar, with coin. And this proof, say they, is made complete by the fact that the banks, when thus run upon for coin, cannot redeem their notes in coin.

But these runs upon banks for coin by no means prove that

¹ The principle named in the text of course applies only to *solvent* banks. It has nothing to do with insolvent ones, whose business is to swindle the public. As a general rule, only those banks can be relied on as solvent where the private property of the stockholders is holden for the notes of the company. Not that there *may not* be other solvent ones,—for undoubtedly there may be,—but experience thus far has been largely against all others.

solvent notes are not equal in value, dollar for dollar, with coin. They prove only that the holders of the notes have doubted the solvency of the banks. These runs have never occurred in countries where the banks were known to be solvent. They have occurred only in countries where the solvency of the banks was doubted, as in England and the United States. Thus, in Scotland there is no history (so far as I know or believe) of a single run upon the banks in a period of eighty years, — that is, from 1765 to 1845. There may have been runs in a few instances upon some particular bank, but none upon the banks generally. And why? Not at all because these banks kept on hand large amounts of coin, — for they really kept very little, — but solely because the public had a perfect assurance of the solvency of the banks; an assurance resulting from the facts that each of the banking companies had a very large number of stockholders, and that the private property (including the real estate) of all these stockholders was holden for the debts of the banks. The public, therefore, knew, or felt perfectly assured, not only that the notes of the banks were all solvent, but also that they would all speedily go back to the banks, and be redeemed by being accepted in payment of notes discounted. Under these circumstances, the public not only made no runs upon the banks for coin, but even preferred the notes to the coin.

In England, on the contrary, the runs upon the banks during the same period of eighty years were very frequent. And why? Because nobody had any abiding confidence in the solvency of the banks. The Government, for the sake of giving a valuable monopoly to the Bank of England, had virtually enacted that there should be no other solvent banks in England; or at least none that could be publicly known to be solvent. This enactment was that, with the exception of the Bank of England, no bank in England should consist of more than six partners. Rich men — those who had credit and wished to use it — could generally do better with it than to put it into a company where there were only six partners, and where the credit of the partnership could not be sufficiently known to be of much value, or to protect them against runs for coin. The result was that, with the exception of the Bank of England, all, or very nearly all, the banking business in England was in the hands of men who were not only

unworthy of credit, but really had no credit, except so long as they were ready to redeem their notes either in coin or Bank of England notes.¹

In many or most of the United States, up to 1860, the solvency of the banks was rendered doubtful, or worse than doubtful, by legislation that authorized the banks to issue notes to two, three, or four times the amount of their capital; that authorized the stockholders themselves to borrow these notes of the banks, and then exempted the private property of the stockholders from all liability for the debts of the banks. Of course it often happened that no reliance could be placed on the solvency of such banks, and that runs, which they could not meet, would be made upon them for coin.

But clearly the runs upon such banks as these did nothing towards proving that the notes of banks, *known to be solvent*, were not equal in value, dollar for dollar, with coin.

But the panic of 1873, in the United States, did not proceed at all from any doubt as to the solvency of the banks, but wholly from the insufficiency in the amount of money. The destruction of the State banks by a ten per cent. tax on their issues; the limitation upon the issues of the national banks to the sum of three hundred and fifty-six million dollars; and the limitation upon the greenbacks to three hundred million dollars, — reduced the currency to six hundred and fifty-six million dollars. And these six hundred and fifty-six million dollars, being, for want of redemption, some fifteen per cent. below par of specie, reduced the actual amount of money to about five hundred and fifty-eight millions. The population of the country in 1873 was at least forty millions, and the property probably forty thousand millions. This lack of money, compared with population and property, compelled traffic of all kinds to be done on credit, instead of for cash. Every thing was bought on credit, and sold on credit. And the same commodity, in going from producer to consumer, was generally sold two,

¹ One cause that made the English banking companies — companies consisting of not more than six partners — unworthy of credit was that, although the private property of the partners was holden for the partnership debts, yet the condition of land titles in England was such as to make land practically unavailable as a basis of credit. The credit of the bankers, therefore, rested only on their *personal* property. That is, the credit of each banking company rested, *at best*, only on the *personal* property of not more than six persons.

three, four, or more times over *on credit*. The consequence was that this private indebtedness among the people had become so enormous, in proportion to the money with which to cancel it, as to place the credit of the whole community at the mercy of a few holders of money, who had no motive but to extort the utmost possible from the necessities of the community. The result was the general collapse of substantially all credit.

Had there been freedom in banking, nothing of this kind would have occurred. The bankers would have been so numerous as to be able to furnish all the money that could have been kept in circulation. They would probably have supplied three, four, or five times the amount we actually had. Traffic between man and man would have been almost wholly done for cash, instead of on credit; and nothing in the form of a panic would have been known.

The panic of 1873, therefore, does nothing towards proving that *solvent* notes, issued for circulation as money, — no matter how great their amount, — are not equal in value, dollar for dollar, with coin.

X. But the argument that is offered perhaps with the most assurance as proof that any increase of money by means of paper reduces for the time being the gold or silver dollar below its true and natural market value is derived from the rise that takes place in the prices of commodities, relatively to gold and silver, whenever the currency is increased by the addition of paper.

This argument, if it be an honest one, implies an ignorance of two things; namely, first, an ignorance of the fact that the paper is employed as capital to diversify industry and increase production; and, secondly, an ignorance of the effect which a diversity of industry and increase of production have upon the prices of commodities, relatively to any fixed standard of value. This effect has been illustrated in a previous number of this Review, and need not be repeated here.¹

The diversity of industry and increase of production that follow an increase of currency by paper, and the effect which that diversity and production have upon the prices of commodities,

¹ See "The Law of Prices" in the "Radical Review" for August, 1877.

utterly destroy the argument that the rise in prices results from any depreciation in the value of coin below its true and natural value as a metal.

A second answer to the argument drawn from the rise in prices under an abundant paper currency is to be found in the theory of the very men who oppose such a currency. Their theory is that, by the prohibition of the paper, the coins can be made to have a "purchasing power as money" *indefinitely greater than their true and natural market value as metals*. They hold that the coins already have "a purchasing power" as money far greater than their true and natural value as metals.

Now, inasmuch as every dollar of *solvent* paper currency represents — by giving a lien upon — so much real property as is equal to the coin in true and natural market value, it necessarily follows, on their own theory, that the paper has no other effect than to bring the coins *down*, from their unnatural, fictitious, and monopoly price, or "purchasing power," to their true and natural value as metals; or, what is the same thing, to bring all other property *up* to its true and natural market value, relatively to the coins as metals.

XI. It will now be taken for granted that the following propositions have been established; namely, —

1. That the only true and natural market value of gold and silver coins is that value, and only that value, which they have for use or consumption as metals; that this is the value at which they now stand in the markets of the world; that it is the only value that has any stability; and that it is the only value at which they can be said to be standards for measuring the value of any other property whatever.

2. That inasmuch as paper money does not compete at all with gold and silver coins for any of those uses that give them their value, the true and natural market value of the coins cannot be reduced below their value as metals, or their value in the markets of the world, by any possible amount of paper money that can be kept in circulation; and that, consequently, the paper money, however great its amount, can do nothing towards reducing the coins as standards of value below their true and natural value as standards, — that is, their value as metals.

3. That the coins, standing at their true and natural value as metals, are as much standards by which to measure the value of all other *money* as of all other property; and, consequently, that all other money that has the same value in the market, dollar for dollar, with the coins, only increases the amount of money, without lowering the standard of value; and that, if all the other vendible property in the world were cut up into pieces or parcels, each of the same value with a dollar (or any given number of dollars) of coin, and each piece or parcel were represented by a promissory note, and all these notes were to be bought and sold as money in competition with the coins, the coins would not be thereby reduced below their true and natural market value as metals, nor, consequently, below their true and natural market value as standards.

4. That to say that the true and natural market value of the coins as standards of value is diminished by increasing the number of dollars, so long as the additional dollars are of the same value, dollar for dollar, with the standards, is equivalent to saying that the coins have no fixed—nor any thing like a fixed—value of their own; and that they are, consequently, unfit for, and incapable of being, standards of value; that to say that increasing the number of dollars, all of one and the same value, is diminishing the value of the dollar is just as absurd as it would be to say that increasing the number of yardsticks, all of one and the same length, diminishes the length of the yardstick; or as it would be to say that increasing the number of pound-weights, all of one and the same weight, diminishes the weight of the pound-weight.

XII. The four propositions in the last preceding section are so manifestly true that no one, I apprehend, will even attempt to controvert them otherwise than by asserting that the present market value of the coins does not rest wholly upon their value as metals, but, in part, upon these further facts,—namely, that the coins are money, and, secondly, that they are made a privileged money by the prohibitions or limitations imposed by law upon all other money.

If it should be said—as it constantly is said—that the fact of the coins being made money, and the further fact of prohibitions

or limitations being imposed upon all other money, have given the coins "a purchasing power" far above their true and natural value as metals, the answer is that such a "purchasing power" is an unjust and extortionate power—a mere power of robbery—arbitrarily granted to the holders of the coins, from no motive whatever but to enable them to get more for their coins than they are really worth; or, what is the same thing, to enable them to coerce all other persons into selling their property to the holders of the coins for less than it is worth. And this is really the only motive that was ever urged against the free purchase and sale of all other money in competition with the coins.

The frauds and extortions that are attempted to be practised by making the coins a privileged money, under cover of the pretence of maintaining the standard of value, may be illustrated in this way; namely,—

In some parts of Europe, there is said to be quite a trade in humming birds. While living, they are wanted, I suppose, as pets, the same as parrots, canaries, and some other birds. When dead, after passing through the hands of the taxidermists, they are wanted as ornaments.

Let us suppose there were such a trade in this country. And let us suppose the whole number of humming birds, already caught, in the country, to be ten thousand. And let us suppose their market value as pets and for ornaments to be ten dollars each. The market value of the whole ten thousand humming birds, then, would be one hundred thousand dollars.

And suppose these ten thousand humming birds to be owned by one hundred men, each man owning one hundred birds,—that is, one thousand dollars' worth.

But suppose further that, in consideration of humming birds being rare, beautiful, containing much value in small space, and incapable of being rapidly increased, the government should adopt and legalize them as money, *as standards of value*.

And suppose that, under pretence of maintaining this standard of value unimpaired, the government should prohibit all other money, and should also prohibit all substitutes and all contracts—such as notes, checks, drafts, bills of exchange, and the like—by which the necessity for buying and selling the humming birds themselves—the legalized money—should be avoided.

Suppose, in short, that, under pretence of maintaining this standard of value, the government should establish, in the hands of these hundred owners of the humming birds, an absolute monopoly of money, and of every thing that could serve the purposes of money.

What, now, would be the market price of the humming birds? And what would become of the standard of value? Why, we know that the one hundred owners of these ten thousand humming birds, having thus secured to themselves an absolute monopoly of all the money in the country, would demand for their birds as money, a hundred, a thousand, or a million times more than their true and natural value,—that is, more than they were worth simply as humming birds. By the monopoly of money, they would be put in possession of a substantially absolute power over all the property and labor of our forty-five millions of people. There would be but one holder of money for every four hundred and fifty thousand people. These four hundred and fifty thousand people could sell neither their labor nor their property to anybody except this single owner of humming birds. And they could sell to him only at such prices as he should choose to give. And he, knowing his power over their necessities, would not part with one of his birds, unless he should get in exchange for it a hundred, a thousand, or a million times more than it was really and truly worth. In this way this pretended standard of value would be made to measure—that is, to procure for its possessor—a hundred, a thousand, or a million times more than its own true and natural value.

Of course, everybody in the country, except these hundred men, would be robbed of all their property at once, unless there should chance to be some few so situated that they could contrive to live within themselves without selling either their property or their labor. And these hundred men would soon make themselves masters and owners of substantially all the property in the country. All the other people of the country would be at their mercy, and would be permitted to live, or suffered to die, as the pleasure of the one hundred men should dictate.

Such would be the effect of establishing a monopoly of money under pretence of establishing a standard of value.

But suppose, now, on the other hand, that all men were allowed

to exercise their natural right of buying and selling as money any thing and every thing which they should choose to buy and sell as money. What would be the result? Why, we know from experience that, instead of buying and selling the humming birds themselves, they would rarely buy one of them. On the contrary, they would buy and sell notes, checks, drafts, and the like, representing perhaps a large portion of the property of the country. These notes, checks, and drafts would be nominally and legally made payable in humming birds, and would be in the nature of liens upon the property of the makers. And any holder of one of them could, if he chose, not only demand humming birds in payment, but, if that were refused, could sue for, and recover judgment for, so many actual humming birds as the note promised. And the property of the maker of the note would be taken by legal process, and sold for humming birds, and nothing else; and these birds would then be paid over to the holder of the note.

But we know, at the same time, that the humming birds, when thus actually paid over to the holder of the note, would be worth no more in the market than the note was before he sued on it; that they would buy no more of any thing he wanted to buy than would the note; that nearly or quite everybody who had any thing to sell would rather have the note than the birds; and that, unless he wanted to keep the birds as pets or for ornaments, he would have made a bad bargain for himself; that even if he wanted the birds to keep, he could have bought them in the market with the note at the same price and with much less trouble to himself than it cost him to obtain them by his suit; and finally, that he had made a fool and a curmudgeon of himself by bringing a suit, and taking trouble upon himself, and giving trouble to the maker of the note, in order to get something that he did not want, and which it would be a trouble and loss to him to keep, and a trouble to get rid of; for all which he would get no profit or compensation whatever.

As sensible men would not be likely to go through such unprofitable operations as this, the result would be that men generally, instead of buying and selling the humming birds themselves as money, would seldom or never buy them, except when they had a special use for them as humming birds; but, in place

of them, would buy and sell such notes, checks, drafts, and the like as had an equal value in the market with the birds, and were more convenient to keep, handle, and transport than the birds. The birds themselves would continue to stand, in the market, at their true and natural value as humming birds, and, as such, would be very good standards of value by which to measure the value of all other money, as well as of all other property; and all traffic between man and man would be the exchange of one kind of property for another, each at its full, true, and natural value, with no extortion or coercion on either side.

This supposed case of the humming birds gives a fair illustration of the sense, motives, and honesty of all that class of men who are continually crying out for prohibitions or limitations upon all money except gold and silver coins, or some other privileged money, under pretence of maintaining the standard of value. They all have but one and the same motive,—namely, the monopoly of money, and the power which that monopoly gives them to rob everybody else.

LYSANDER SPOONER.

UNIVERSAL WEALTH

SHOWN TO BE EASILY ATTAINABLE.

PART FIRST.

By LYSANDER SPOONER.

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UNIVERSAL WEALTH.

SECTION I.

THE wealth of the world is proportionate to the number of different things mankind possess, rather than to the quantity of any one thing. Thus, if every human being had as much wheat as he could eat, and had no other wealth, all would still be poor. But if, in addition to all the wheat they desire, every human being has a thousand, ten thousand, or a hundred thousand other things—each, on an average, of equal value with the wheat—the wealth of each individual, and of the world, is multiplied a thousand, ten thousand, or a hundred thousand fold.

Individuals usually desire, for their own use or consumption, but a very limited amount of any one thing; but we as yet know no limit to the number of different things they desire. And we shall never know any such limit, until the ingenuity of the human race, in the invention of new commodities, shall have been exhausted.

The great problem of universal wealth, therefore, is comprised in these two, viz.: First, how shall we give to every person the greatest possible *variety* of commodities? and, secondly, how shall we give to each individual as much as he desires of each and all these various commodities?

Men are able to produce almost no wealth at all by their hands alone. Until they make discoveries in science, and inventions in implements and machinery, they remain savages, few in number, and living upon such wild fruits as they can gather, and such wild

animals as they can kill. But they have proved themselves capable of such discoveries in science, and such inventions in implements and machinery, as will, each of them, enable a man to produce a hundred, a thousand, some of them a million, or even a hundred or a thousand million times as much wealth as he could before create with his hands alone. What labor could Watt perform with his hands, compared with that performed by his steam engine? What labor could Arkwright perform with his hands alone, compared with that performed by his spinning machine? What labor could Stephenson perform, in the transportation of freight and passengers, compared with that performed by his locomotive? What could Morse do, on foot, in the transmission of intelligence, compared with what can be done with his telegraph? What could the Assyrian do, with his tablets of baked clay, in supplying the world with reading matter, compared with what can be done with a Hoe printing press? What could men do, with their hands alone, in tunnelling mountains, building suspension bridges, and laying deep sea cables, compared with what can be done by the machinery they have invented for those purposes?

These things should teach us that it is brains, and not hands, that must be relied on for the creation of wealth. And it would be well for us to realize, much more fully than we ever have done, that brain labor, no less than hand labor, must be paid for, if we would have the benefit of it.

The discoveries in science, the invention of implements and machinery, and the invention of new commodities for consumption, have already multiplied the wealth of *some portions* of the world by millions and thousands of millions of what it once was. And yet it is but recently that inventions have begun to add much to the wealth of the world. For thousands, and tens, perhaps hundreds of thousands of years, mankind remained savages, or at best barbarians, for the want of such inventions as are now just beginning to be made.

At the present time, the people of the United States are acknowledged to take the lead of the whole world, especially in mechanical inventions. And yet substantially all our inventions

have been made within a hundred years ; most of them within fifty years. We are now making from ten to fifteen thousand new inventions per annum. Some of these are of great, in fact of immeasurable, value. Many of them, although of less value, are nevertheless valuable. And yet we are probably not producing a tenth, perhaps not a hundredth, part so many inventions, in proportion to population, as we ought to do, and should do, if inventors were protected, as they ought to be, in a perpetual right to their inventions, and they and the public had the capital — that is, the money — necessary for producing inventions, and putting them into operation.

The people of the United States constitute not more than a twenty-fifth part of the population of the globe. In not more than a fourth, fifth, perhaps even a tenth, part of the world are any considerable number of inventions now being made. Not because the peoples of those other portions are naturally incapable of invention ; but because they have no protection for their property in their inventions, and no money, no capital, no opportunity to make inventions, or bring them into operation. Their poverty, ignorance, and servitude suppress all their efforts in this direction.

What will be the number and value of the inventions made, and what the variety and amount of wealth produced by means of them, when, if ever, all mankind shall be protected in their property in their inventions, and shall have all the money necessary to bring their inventions into successful operation, no one now can form any idea.

SECTION II.

MONEY is the great instrumentality — the indispensable capital — by means of which inventions are produced, machinery operated, and their products distributed to consumers.

The inventor must have *money*, with which to make his experiments, subsist while making them, perfect his inventions, demonstrate their utility, and bring them into practical operation. And to do all these often requires years of time, and large expenditures of money.

The operator of machinery must have *money*, with which to buy his machinery, his raw materials, and his means of subsistence while he is manufacturing his goods for the market. Then he must be able to sell his goods for *money*, in order to buy new materials, and subsist himself while manufacturing new goods.

The merchant must have *money*, with which to buy his goods; and he must be able to sell his goods for *money*, in order that he may buy new goods.

And, finally, the consumers of all these goods must have *money*, to buy and pay for all the goods that are to be manufactured.

Thus every man, who either makes inventions, operates machinery, or distributes or consumes the commodities produced, is constantly dependent upon *money*, for his means of production, distribution, and consumption.

And the amount of *money* that each one must have depends upon the market value of the commodities he has to buy, whether he buys them for production, distribution, or consumption; since the *money*, in each individual case, must, in order to make the contract an equitable one, be a *bona fide* equivalent of the commodity bought and sold.*

What, then, will be the amount of money requisite to bring out fully the inventive faculties of all mankind; set in motion all the machinery invented; distribute all the products; and thus give to mankind, for final consumption, the full benefits of all the inventions that can be made?

To answer this vital question, it is necessary to consider that the market value of all commodities, relatively to any fixed

* It would be absurd to expect any rapid increase or equitable distribution of wealth, unless we abjure forever the theory, on which our own government and so many others now act, viz., that it is wholly unnecessary that money should be an equivalent of the property that is to be bought with it; that the money of a country should be restricted by law to a very small amount; that the right to issue this amount should be granted as a monopoly to a very few persons; that these few should thus be licensed to control all industry and traffic; to fix the prices of all property and labor; and thus to extort, in exchange for their money, many times more of all other men's property and labor than the money is really and truly worth. Such a monopoly has obviously no tendency or purpose but to obstruct production and exchange, and enable the few to secure to themselves the wealth produced by the many.

standard of value — or to such a standard as a gold dollar, for the want of a better, is assumed to be — *will depend wholly upon the variety and amount of commodities produced, distributed, and consumed. In other words, the market value of each man's particular product will depend wholly upon the variety and amount of commodities which other men produce, and are willing to give in exchange for it.*

To illustrate this principle, let us suppose that Mr. A is a hatter; and that he has acquired such science, skill, machinery, and money capital, that he is able, by himself alone, to manufacture ten thousand hats per annum. He manufactures these hats for sale, and not for his own consumption. Their value to himself, therefore, depends wholly upon the number and amount of other commodities which he desires, and which other persons can, and will, give him in exchange for hats. If there be no one who desires a hat, or who — though desiring one — has anything desirable that he can give in exchange for it, A's ten thousand hats are of no value to him; simply because he can get nothing desirable in exchange for them. But if there are ten thousand other men who desire hats, and who are producing each a different commodity from all the others — a commodity as much desired by A as one of his hats is desired by each of the others — then A will be able to sell one of his hats to each of these ten thousand men, and get in exchange for it, a commodity as desirable to himself as the hat is to each of these ten thousand men. He will thus get the full and true value of his ten thousand hats, where, but for the power of these other men to produce something desirable to give in exchange, he would have got nothing at all for them; and would have utterly lost the labor of producing them.

Thus it will be seen that the *market* value of each man's own product depends entirely upon the number and amount of desirable things which other men produce, and are willing to give him in exchange for his particular product.

Every man, therefore, who has the science, skill, machinery, and money capital that are necessary to enable him to produce, say, ten thousand hats per annum, has the highest interest that ten

thousand other men, who desire hats, shall have all the science, skill, machinery, and money capital that shall enable them to produce ten thousand other commodities that shall be as desirable to him as one of his hats is to each of these ten thousand men.

Suppose the publisher of the *New York Herald* has such science, skill, machinery, and money capital, that he is able to produce a hundred thousand copies of the *Herald* daily. And suppose there are a hundred thousand other men, and only a hundred thousand, who desire the *Herald*. The value of the *Herald* to its producer will depend, in this case, wholly upon the number and amount of other desirable things which these hundred thousand other men can, and will, give in exchange for the *Herald*. If they are so destitute of science, skill, machinery, and capital that they can produce nothing desirable that they can give in exchange for it, the *Herald* will have no value to its producer; and his labor in producing it will be thrown away. But if each one of these hundred thousand men has science, skill, machinery and capital equal to the publisher of the *Herald*, and is producing a commodity different from all the others—a commodity as desirable to the publisher of the *Herald* as the *Herald* is to him—he will then be able and willing to give, in exchange for the *Herald*, a commodity as desirable and intrinsically as valuable, as the *Herald* itself. And the publisher of the *Herald* will get the full value of, or a full equivalent for, his hundred thousand copies of the *Herald*.

Is it not, therefore, perfectly plain, in this case, that the publisher of the *Herald* has the highest interest that every man, who desires to buy the *Herald*, shall have all the science, skill, machinery, and capital, that may enable him to produce, and give in exchange for the *Herald*, something that is equally as desirable and valuable as is the *Herald* itself? Would it not be fatuity and suicide for the publisher of the *Herald* to advocate the tyranny and villainy of depriving all these hundred thousand men, who desire to buy the *Herald*, of all the science, skill, machinery, and capital, which alone can enable them to give, in exchange for it, something that is intrinsically as desirable and valuable as itself? Yet this is precisely what the *Herald*, and the press generally of

the country, have been doing in all past time, and are doing to-day.

Of course, we cannot know, beforehand, what varieties and amounts of commodities mankind will invent and produce in the future, when, if ever, they shall have all the facilities and inducements for invention, production, distribution, and consumption, which ample legal protection to the rights of inventors, and ample money capital, will give them. Nor can we know, beforehand, the amount of money that will be required to bring science, skill, invention, machinery, and production to their highest points, and to distribute to the consumers the commodities produced. But the following article, which has been previously published,* on "THE LAW OF PRICES," will aid us in understanding how utterly and ludicrously inadequate, unworthy of consideration, how nearly useless in fact, are all such amounts of money as we have been accustomed to think of, as sufficient for these purposes.

In truth, nobody claims that our present amounts of money are at all adequate to the needs of industry and traffic, if the latter is to be carried on upon the principle that money should be a *bona fide* equivalent of the labor and property that are to be bought with it. All that those, who advocate restrictions upon money, can say in defence of them, is, that by coercing men into selling their labor and property for less than they are worth, a small amount of money can be made to have as much "purchasing power" as a larger one. This is only saying that, by establishing a monopoly of money, the few holders of that monopoly will be enabled to coerce all other men into selling their labor and property for less than they are worth. And this is the whole purpose of the monopoly. It is only a cunning species of robbery, which has hitherto been successful, solely because the victims did not understand the jugglery by which it was accomplished.

* It was first published in the *Radical Review* for August, 1877; and afterward in a pamphlet.

THE LAW OF PRICES:

A DEMONSTRATION OF THE NECESSITY FOR AN INDEFINITE INCREASE OF MONEY.

I.

THE writers on money seem never to have obtained the first glimpse of the fundamental *law* which governs prices, and which necessitates a constant and indefinite increase in the volume of money. That law may be illustrated in this manner:

Suppose an island cut off from all communication with the rest of the world, and inhabited by one hundred men. Suppose that these hundred men know no industry except the production of wheat; that they produce annually one thousand bushels, each man producing ten bushels, which is enough for his own consumption. Suppose further that these hundred men have money to the amount of five dollars each in gold, silver, and copper coins, and that these coins are valued by them as highly as similar coins are now by us. What will be the price of wheat among these men, compared with the coins? Plainly, it will bear no price at all. Each man producing for himself all he can eat, no one has any occasion to buy. Therefore none can be sold at any price.

But suppose that one after another of these hundred men leave wheat-growing, and engage in the production of other commodities,—each producing a different commodity from all the others,—until there shall be a hundred different commodities produced; only one man being left to produce wheat. And suppose that this one man has increased his product from ten bushels to one thousand. There is now just as much wheat as there was when all were employed in producing it. The only differences are, first, that the whole amount is produced now by one man, where before it was produced by a hundred men; and, secondly, that the ninety-nine men have each engaged in the production of some commodity, different from that produced by any other, but of which, we will suppose, all the others wish to purchase each his proportionate share for consumption.

There is now a hundred times as much wealth produced as when all produced wheat and nothing else. But each kind has only a single producer, while it finds a hundred consumers. And each man's product, we will suppose, has the same value with every other man's product.

What, now, will be the price of wheat among these hundred men relatively to the coins? Doubtless a dollar a bushel. When the first man abandoned wheat-growing, and betook himself to some other occupation, he created a demand for ten bushels of wheat, which he still wanted for consumption as before. This demand for ten bushels would doubtless be sufficient to give wheat the price of one cent per bushel, where it had no price before. When a second man of the hundred abandoned wheat-growing, he created a demand for ten bushels more; making twenty bushels in all. This increased demand would doubtless be sufficient to raise the market price of wheat to two cents a bushel.

When a third man of the hundred left wheat-growing for some other pursuit, his demand for ten bushels would raise the market price another cent; and so on, until by the time the ninety-nine had left wheat growing, the continually increasing demand would have raised the price to ninety-nine cents a bushel; for convenience of round numbers, say a dollar a bushel.

Here, then, wheat has been raised from no price at all to a dollar a bushel, not because there is any less wheat produced, or any more consumed, than before, but solely because the whole thousand bushels are now produced by one man, instead of being produced, ten bushels each, by the hundred different men who were to consume it; and because, further, each of the ninety-nine men, who have left wheat-growing, is able to purchase wheat, inasmuch as he has been producing some other commodity which brings him as good a price as the wheat brings to the man who still produces wheat.

Under this new state of things, then, the man who continues to produce wheat produces a thousand bushels, worth a dollar a bushel; that is, a thousand dollars' worth in all. Each of the other ninety-nine produces an equal amount of market value in some other commodity. The whole hundred men, then, produce wealth that has now a market value of one hundred thousand dollars, where originally they had produced nothing that had any *market* value at all.

This change in the price of wheat has been produced, then, solely by reason of the diversity of industry and production that has taken place among these hundred men. And the market prices of all the other ninety-nine commodities have been affected by the same law, and to the same extent, as has been the price of wheat.

Here, then, is a hundred thousand dollars' worth of commodities produced, each man producing a thousand dollars' worth.

As each man retains a hundredth part of his product—that is, ten dollars' worth—for his own consumption, he has nine hundred and ninety dollars' worth for sale. The whole hundred men, therefore, have one hundred times nine hundred and ninety dollars' worth for sale, which is equal to ninety-nine thousand dollars in all; for convenience of round numbers, say one hundred thousand dollars.

The hundred men, having each five dollars in coins, have in the aggregate five hundred dollars. To make the purchases and sales of these hundred thousand dollars' worth of commodities, will require each of these five hundred dollars to be exchanged for commodities, on an average, two hundred times. That is, in carrying on the commerce of these hundred men for a year, their whole stock of money must be exchanged, on an average, once in a little less than two days. Or if we reckon but three hundred business days in a year, we shall find that the whole stock of money must be exchanged, on an average, once in every day and a half.

Such rapidity of exchange would be practicable enough, if the holders of the coins should all part with them readily at their true and natural value, instead of holding them back in the hope of getting for them more than they were really worth. But where there was so active a demand for the coins as to require that the whole stock be sold, on an average, once in every day and a half, it is natural to suppose that the holders of the coins would hold them back, in

order to get more for them than their true and natural value. And in so far as they should do so, they would obstruct trade, and by obstructing trade obstruct and discourage production, and thus obstruct the natural increase of wealth.

II.

But suppose, now, that the number of men on this island be increased from one hundred to one thousand, and that they are all engaged in producing wheat only; each man producing ten bushels, which is all he wants for his own consumption. And suppose that each man has five dollars in gold, silver, and copper coins. What will be the price of wheat among these men, relatively to the coins? Clearly, it will have no *market* price at all, any more than it had when there were but a hundred men.

But suppose that nine hundred and ninety-nine of these thousand men leave wheat-growing, and engage each in the production of a commodity different from that produced by any one of the others. And suppose that the one who still continues to produce wheat is able, from his increased science, skill, and machinery, to produce ten thousand bushels — ten bushels for each of the thousand men — where before he produced only ten bushels for himself.

There is now just as much wheat produced as there was before. But it is now all produced by one man — nine hundred and ninety-nine thousandths of it being produced for sale — instead of being produced by a thousand men, each producing ten bushels for his own consumption.

What, now, will be the price of wheat among these thousand men? Why, being governed by the same law that has already been illustrated in the case of the hundred men, it will go on rising one cent at a time, as each man leaves wheat-growing for some other pursuit, until, when nine hundred and ninety-nine shall have left wheat-growing, and shall have become purchasers of wheat, instead of producers, the price will be nine hundred and ninety-nine cents a bushel — for convenience of round numbers, say ten dollars a bushel — where before it bore no price at all.

In this state of things, then, the man who still continues to produce wheat, will produce ten thousand bushels; worth, in the market, ten dollars a bushel, or a hundred thousand dollars in all.

Here, then, we have the price of a hundred thousand dollars for ten thousand bushels of wheat, which, when produced by a thousand different men, each producing ten bushels for his own consumption, had no *market* value at all. And the other nine hundred and ninety-nine men, we will suppose, produce each a different commodity from all the others; the whole annual produce of each having the same market value as the wheat-growers crop of wheat. The market value, then, of all the products of the whole thousand men will be one thousand times one hundred thousand dollars — that is, one hundred million dollars — where before, when they were all producing wheat and nothing else, their whole products had no *market* price at all.

When we consider that each producer retains for his own consumption but a thousandth part of his products (a hundred dollars worth), and that, consequently, nine hundred and ninety-nine parts of all these products are not only

to be sold, but to be sold *twice*, as they would now have to be, — that is, once by the producer to the merchant, and once by the merchant to the consumer, — we see that there will be sales to the amount of one hundred and ninety-nine million eight hundred thousand dollars — for convenience of round numbers, say two hundred million dollars — where before, when all were producing wheat, there was no such thing as a sale of a cent's worth of any thing.

These thousand men, we have supposed, had each five dollars in coins — making five thousand dollars in all — with which to make these purchases and sales of two hundred millions. How many times over will all these coins, on an average, have to be bought and sold, in order to effect these exchanges? Dividing two hundred millions by five thousand, we have the answer; namely, *forty thousand times!* Dividing this number by three hundred, — which we will suppose to be the number of business days in a year, — we find that, in order to make their exchanges, their whole stock of money must be bought and sold, on an average, *one hundred and thirty-three times every day!*

Thus we see that one thousand men, with such a diversity and amount of production as we have supposed, would have two thousand times as many purchases and sales to make as the one hundred men. And in making these purchases and sales, we see that their whole stock of money would have to be bought and sold two hundred times oftener than would the whole stock of money of the one hundred men, in making their purchases and sales of one hundred thousand dollars. We see, too, that, if we call eight hours a day, — that being the usual number of business hours, — their whole stock of money would have to be bought and sold, on an average, *sixteen times over every hour, or once in every four minutes*; whereas the whole stock of money of the one hundred men would have to be bought and sold *only once in a day and a half*; or — calling eight hours a day — *once in twelve hours*.

Such, let it be specially noticed, is the difference in the rapidity required in the purchase and sale of money in making the exchanges among a thousand men, on the one hand, and a hundred men, on the other, *although the thousand men have the same amount of money, man for man, as the hundred men*; the thousand men having five thousand dollars, and the hundred having but five hundred dollars.

This illustration gives some idea of the effect produced upon prices by the expansion of industry and the diversity of production. And yet the writers on money tell us that a large number of men need no more money, *man for man*, than a small number; that, if a hundred men need but five hundred dollars of money, a thousand men will, by the same rule, need but five thousand dollars.

In the case already supposed, — of the one thousand men, — how far would their five thousand dollars avail as money toward making their exchanges of two hundred million dollars? Plainly, they would avail nothing. The holders of them, seeing the necessities of the people for money, would hold back their coins, and demand so much more than their true and natural value, as to put a stop substantially to all production, except of such few things as could be exchanged by barter, or as each one could produce for his own consumption.

The obvious truth is that, in order to carry on their commerce with money at its true and natural value, and consequently without obstruction or extortion

from the money holders, it is necessary that these thousand men, with their increased diversity and amount of production, should have two hundred times as much money, *man for man*,—and two thousand times as much in the aggregate,—as was necessary for the one hundred men, as before supposed.

In other words, the thousand men have two hundred million dollars of sales to make, where the hundred men had but one hundred thousand. Dividing two hundred million by one hundred thousand, we find that the thousand men, with such diversity and amount of production as we have supposed, have two thousand times as many sales to make as the one hundred had; and consequently that they require two thousand times as much money as did the one hundred.

III.

But to show still further the ratio in which diversity of industry tends to increase the price of commodities, *relatively to any fixed standard*, let us suppose that the number of men on this island be still further increased from one thousand to ten thousand. And suppose that all these ten thousand are engaged in producing wheat alone; each producing ten bushels for his own consumption, that being all he wants. And suppose they have each five dollars in gold, silver, and copper coins. What will be the price of wheat, relatively to the coins? Clearly, it will have no price at all, not even so much as one cent a bushel.

But suppose that all but one of these ten thousand men should leave wheat-growing, and engage in other industries; each one producing a different commodity from all the others. And suppose that the one who still continues wheat-growing has acquired such science, skill, and machinery, that he is now able to produce a hundred thousand bushels—that is, ten bushels each for ten thousand men—where before he only produced ten bushels for himself.

What will now be the price of wheat among these ten thousand men? Why, by the same law that has been already illustrated, it will be ninety-nine dollars and ninety-nine cents a bushel—for convenience of round numbers, say one hundred dollars a bushel—where before it had no *market* value at all.

And yet there is just as much wheat produced as there was before, and every man gets just as much wheat to eat as he had before, when all were producing wheat.

In this state of things, the one hundred thousand bushels of wheat, produced by one man, at a hundred dollars a bushel—which will then be its market value—are worth one hundred thousand times one hundred dollars; that is, ten million dollars. And suppose that all the other nine thousand nine hundred and ninety-nine men are each engaged in an industry as profitable as that of the remaining wheat grower. The aggregate production of the whole ten thousand men will now have a market value equal to ten thousand times ten million dollars; that is, one hundred thousand million dollars.

And if we suppose that all these commodities are to be sold * *three* times

* All but ten millions—a ten thousandth part of the whole—would have to be sold, since each man would retain for his own consumption only a ten thousandth part of what he produced; namely, one thousand dollars' worth.

over, — that is, once by the producer to the wholesale dealer, once by the wholesale dealer to the retailer, and once by the retailer to the consumer, — we shall see that there are to be sales equal to three hundred thousand million dollars, where before, when all were producing wheat, and nothing else, there was no sale of a cent's worth of any thing, and no *market* value at all for any thing.

Now suppose that the coins, which these men had, have remained fixed at the same value they had when the men were all producing wheat. How many times over, then, must they necessarily be bought and sold, in the course of a year, in order to effect the purchase and sale of these three hundred thousand millions — or one hundred thousand millions three times over — of property that are to be exchanged ?

There are ten thousand men, each having five dollars in coins; that is, fifty thousand dollars in all. Dividing three hundred thousand millions by fifty thousand, we find that the whole of these fifty thousand dollars in coins *must be bought and sold six million times!* Six million times annually, to effect the exchanges of the products of ten thousand men!

Dividing six million by three hundred (which we will suppose to be the number of business days in a year), we find that, on an average, their whole stock of money must be bought and sold *twenty thousand times over every day.* Or supposing the business day to be eight hours, the coins would all have to be bought and sold twenty-five hundred times over every hour; equal to forty-one and two-thirds times every minute.

And this happens, too, when the ten thousand men have the same amount of coin, *man for man*, as the one hundred and the one thousand men had, in the cases before supposed.

Thus we see that, with such a diversity and amount of production as we have supposed, the exchanges of the ten thousand men would require that their whole stock of money should be bought and sold one hundred and fifty times oftener than the whole stock of the one thousand men, and thirty thousand times oftener than the whole stock of the one hundred men.

We also see that, in the cases supposed, the ten thousand men, having three hundred thousand millions of exchanges to make, have fifteen hundred times as many as the one thousand men, who had but two hundred millions; and that they have three million times as many exchanges to make as the one hundred men. Consequently the ten thousand men require fifteen hundred times as much money as the one thousand men, and three million times as much money as the one hundred men.

IV.

According to the foregoing calculations, the ratio of increase required in the volume of money is this: Supposing the diversity and amount of production to keep pace with the increase in the number of men, and supposing their commodities to be sold but *once*, — that is, directly from producer to consumer, — a hundred men would require a thousand times as much money as ten men; a thousand men would require a thousand times as much money as a hundred men; ten thousand men would require a thousand times as much money as a thousand men; and so on.

But inasmuch as, in the case of a thousand men, their commodities would have to be sold *twice*, — that is, once by the producer to the merchant, and once by the merchant to the consumer, — the thousand men would require *two* thousand times as much money as the hundred men. And inasmuch as, in the case of the ten thousand men, their commodities would have to be sold *three times* over, — that is, once by the producer to the wholesale dealer, once by the wholesale dealer to the retailer, and once by the retailer to the consumer, — the amount of money required, instead of being either one thousand or two thousand times as much as in the case of the one thousand men (whose commodities were sold but twice), would be one and a half thousand times (as three sales are one and a half times as much as two) — that is, fifteen hundred times — as much as in the case of the one thousand men.

Stating the results of the preceding calculations in the simplest form, we find that different numbers of men, having a diversity and amount of production corresponding to their numbers, in making their exchanges with each other, require money in the following ratios, relatively to each other; namely,—

10 men require	\$100
100 men require	100,000
1,000 men require	200,000,000
10,000 men require	300,000,000,000

But as the same money could be used many times over in the course of a year, they would not need an amount of money equal to the amount of their annual exchanges. If, then, we suppose the aggregate of their annual exchanges to be as above, and their whole stocks of money to be used three hundred times over in a year, — that is, once a day, calling three hundred the number of business days in a year, — we find that the stocks of money required would be as follows:

10 men would require	\$.33½
100 men would require	333.33½
1,000 men would require	666,666.33½
10,000 men would require	1,000,000,000

Or, to state the case in still another form, supposing their aggregate annual exchanges to be as above, and supposing their whole stocks of money to be bought and sold three hundred times over in the year, the money required, *per man*, would be as follows:—

10 men would require	\$.03½ each.
100 men would require	3.33½ each.
1,000 men would require	666.66 each.
10,000 men would require	100,000 each.

If any body thinks he can dispute these figures, let him attempt it. If they cannot be disputed, they settle the law of prices.

v.

The foregoing suppositions are, *first*, that the ten thousand men came finally to have ten thousand different *kinds* of commodities, where they originally had but one, — namely, wheat; *secondly*, that they finally came to have ten thousand times as much wealth, *in quantity*, as they had originally, when all were producing wheat; *thirdly*, that wheat, which at its first sales brought only one cent a bushel, came afterwards to sell for ten thousand cents a bushel, — although the amount of wheat produced, and the supply of wheat for each individual, were the same in the one case as in the other; *fourthly*, that the same effect is produced upon the prices of all the rest of the ten thousand different kinds of commodities as upon the price of wheat; and, *fifthly*, that the annual sales, made by the ten thousand men, amounted finally to three hundred thousand million dollars, where their first sales had amounted to but ten cents, — the amount which the first man who left wheat-growing paid for his yearly supply of ten bushels.

It is not necessary to suppose that such a diversity and amount of production will ever be realized in actual life, although that is not impossible. It is sufficient that these figures give the *law* that governs prices, and consequently demonstrate that a constant and enormous increase of money must be necessary to keep pace with the increase of population, wealth, and trade, if we wish to give free scope to diversity and amount of production.

Unless money should be increased so as to keep pace with this increased demand, the result would be, *first*, obstruction to trade; *secondly*, obstruction to, and discouragement of, industry; and *thirdly*, a corresponding obstruction to the increase of wealth.

In fact, unless the amount of money were increased, these hundred men, thousand men, and ten thousand men, instead of having a hundred, a thousand, or ten thousand different *kinds* of commodities, would advance very little beyond the state they were in when all were producing wheat and nothing else. Some feeble attempts at other industries might possibly be made, but their money, like the shells and wampum of savages, would aid these attempts but slightly; and the men, unless they invented some other money, would either remain absolute savages, or attain only to a very low state of barbarism.

The practical question, then, is, whether it is better that these ten thousand men should remain mere savages, scratching the earth with rude sticks and stones to produce each ten bushels of wheat, or whether it is better that they should all have the money — which stands in political economy for all the ingenuity, skill, science, machinery, and other capital which money can buy — that may be necessary to enable them to produce, in the greatest possible abundance, and of the greatest possible excellence, all the ten thousand commodities that will contribute to their happiness.

A full discussion of this subject would require much more space than can here be given to it. It may perhaps be continued at a future time, if that should be necessary. But enough has doubtless now been said to show the general *law* that governs prices, and consequently to show the necessity for an immense increase of money; an increase dependent upon the diversity and amount of production, and the natural laws of trade applicable thereto; such an increase as no legislation can ascertain beforehand, or consequently prescribe.

SECTION III.

It will now perhaps be said by some, in opposition to this theory of the rise in prices, that it is not sustained by the experience of mankind ; that, on the contrary, the introduction of machinery makes some things wonderfully cheap, which before, relatively to other commodities, were very dear. And as an illustration of this, perhaps we shall be pointed to the present cheapness of printed matter, as compared with the price of written matter before the discovery of the present modes of printing, and the present modes of making paper ; a man now being able, probably, to buy as much printed matter for one cent, as one could have bought of written matter, five hundred years ago, for five, or perhaps ten, dollars.

But the man who makes this objection, does not take into account all the facts upon which the rise in prices depends. He does not take into account the fact that the market price of any commodity, whether produced in less or greater quantity, or by less or more labor, depends only very slightly, if at all, upon the greater or less amount of labor it costs the producer, *but mainly, if not wholly — as has already been explained — upon the power and disposition of other men to buy it, and give him something equally desirable in exchange for it.* The producer of any particular commodity, however desirable a one it may be, can get no just compensation for it, except from those who are themselves producing something equally desirable, which they are willing to give in exchange.

If, for example — to repeat an illustration already given — a hundred thousand copies of the *New York Herald* were printed in a country containing only a hundred thousand men, who desired it, and these men were producing nothing that they could spare, or give in exchange, the *Herald* would plainly bring no price at all, however much these hundred thousand men might desire it. But if these hundred thousand men should become producers of such commodities as they could spare, and give in exchange for the *Herald*, the *market* price of the *Herald* would rise just in proportion to the value of these other commodities. And if these hundred thousand men should finally, through the aid of invention, science, skill, machinery, and capital, become producers of a

hundred thousand different commodities — each man producing a different commodity from all the others — and each man should be willing to give, in exchange for the *Herald*, such a portion of his own particular product as would be as desirable for the producer of the *Herald*, as a copy of the *Herald* was to him, the *Herald*, which before brought no price at all, will now obtain for its producer a hundred thousand different commodities, each of which will be as valuable to him, as a copy of the *Herald* will be to each of these hundred thousand purchasers. And the price of the *Herald*, relatively to any fixed standard of value, will have risen — in accordance with the “*Law of Prices*” already given — from nothing, to a price corresponding to the value of these hundred thousand different commodities that will be given in exchange for it.

The reason why printed matter has become so cheap, in comparison with many or most other commodities, is not at all that the knowledge conveyed by it has become less desirable or valuable than it was before the art of printing was discovered — for both the desire for knowledge, and the value of the knowledge conveyed, have been constantly increasing ever since that time — but it is because invention and production in paper-making and printing have altogether outrun invention and production in *most* other directions ; and mankind are consequently unable, except in comparatively few cases, to give real equivalents for printed matter. *Printed matter, therefore, has now to be sold for only what the producers of other commodities are able to pay.* But if invention and production, in other directions than paper-making and printing, should go on increasing to such a degree that all other men will be able to offer, in exchange for printed matter, commodities as desirable as the printed matter itself, the prices of printed matter will then rise to their true level.

And what is true of printed matter, is equally true of certain other commodities, in whose production science and invention have outrun the science and invention that are employed in ordinary pursuits. These commodities now command no equitable price in the market, solely because mankind in general, for the want of invention, science, skill, machinery, and capital, are

unable to produce commodities of equal value, to be given in exchange.

From all this, it will be seen that the *market* value of each man's product depends, not at all, or at best very slightly, upon the greater or less labor it costs him to produce it — for when all labor is performed by machinery, and men are required only to tend the machinery, it can hardly be said that anything costs *human* labor ; *but it depends mainly, if not wholly, upon the number of other men who can buy it, and give him something desirable in exchange for it.*

At present no such diversity or amount of production exists, as we shall sometime see ; and, consequently, prices have never risen to any such height as they sometime will. But as surely as the diversity and amount of production go on increasing, just so surely will the rise of prices, relatively to any fixed standard of value, also go on increasing in the ratio, and according to the rule, that have now been explained. And the amount of money required for the exchanges of property will of course go on increasing in like ratio. And any attempt to keep down prices, by limiting the amount of money, will only result in suppressing invention, science, skill, machinery, and production, and in the inequitable distribution of the little wealth that is permitted to be produced.

But this theory will be more fully confirmed in subsequent papers.

SECTION IV.

It will now be seen how clearly — as a general rule — it is the interest of all that each and every individual shall have all the capital — that is, all the money — that may be necessary to enable them to produce the greatest variety and amount of wealth ; to make the most discoveries in science, the most inventions in implements and machinery ; to produce the greatest number of new commodities for direct consumption ; and also to enable all those who are neither discoverers nor inventors, to engage in the greatest variety of industries — that is, in the production of all new commodities, as fast as they shall be invented.

We need have no fear that machinery will ever prove an enemy of human labor, if we only have money enough to enable a sufficient number of persons to go into the production of new commodities as fast as they shall be invented. Men driven out of one employment, by machinery, will then be enabled to go into another more lucrative; because every new industry raises the value of all others, and, as a general rule, takes its place on a level with all others. The lack of money to enable men to go into new industries, is the only reason why—at least in recent times—machinery has been regarded as the enemy of the laborer.

The greater the variety of commodities produced, the less the competition in the production of each, and the higher the prices of all; for the price of each rises just in proportion to the number of others for which it can be exchanged, and the amounts of each of these others for which it can be exchanged.

As a general rule, everybody who engages in the production of a new commodity relieves somebody of a competitor, and, to the extent of his own production, becomes a purchaser of the products of others.

Especially ought we to realize how important it is that every facility and inducement that is reasonably possible—both in money and in legal protection—be afforded to all discoveries in science, and all mechanical inventions. These discoveries and inventions are the great, the permanent wealth of the world. The material wealth which we accumulate by means of them, is mostly temporary, and much of it ephemeral. It is quickly consumed, or goes quickly to decay. It could do almost nothing for mankind, were it not for the scientific discoveries and mechanical inventions by which it can be constantly reproduced to meet our daily wants. These discoveries and inventions are, also, not solely the wealth of the particular times or localities in which they are made; but are to become the property of the whole world, and of all future time. It is true that many, or most, of them are being quickly superseded by others that do the same work better; but the inventions and discoveries of each year, or generation, prepare the way for those of the next; and thus, by this succession of inventions and discoveries, the whole world is to be enriched

through all the ages. And we should not grudge the wealth which a perpetual property in them would give to their authors ; for, at best, it will probably, on an average, be not more than one per centum of the wealth created by means of them. And if this one per centum should prove large, for the time being, in proportion to the earnings of other men, it will only stimulate the production of other discoveries and inventions, of which the world will get the benefit, at a like cost of one per centum of the wealth produced by means of them.

Short-sighted men, oppressed by poverty and toil, object to an inventor's having such a property in the products of his labor as other men have in the products of theirs ; because, say they, it would be wrong that he should receive so much for his labor, when we receive so little for ours. But such men should understand that a man's right to the products of his labor does not depend at all upon the value of those products. Whether more or less valuable, they are equally his, solely because he produced them. Labor is worth nothing of itself. Its value depends wholly upon what it produces. If it produces much, it is worth much ; if it produces little, it is worth little ; if it produces nothing, it is worth nothing. Nearly all the world over, the great body of the people are borne down by the heaviest toil ; yet, for the want of science, implements, machinery, and capital, they produce very little ; and that little brings them either a very small price, or absolutely nothing, in exchange, because so few have any thing that they can give in exchange. And this fate, that has so crushed, impoverished, and enslaved mankind for thousands of years in the past, will assuredly continue to crush, impoverish, and enslave them for thousands of years in the future, unless, by means of science, implements, machinery, and capital, they make their industry more productive than it heretofore has been. These men should also understand that the inventor has always been ready and eager to relieve them of their poverty and toil, by giving them machinery that should do their work for them ; and do for them a thousand times more work than they can do for themselves ; and that the only reasons why he has not done so, hundreds and thousands of years ago, have been, first, that he has

been without the necessary means for producing his inventions, and has been denied all just compensation — until quite recently all compensation — for them ; and, secondly, that the mass of men have also been without the necessary means — that is, the necessary money — for utilizing his inventions after he has produced them. Whenever the right of the inventor to the products of his labor shall be acknowledged, and the people shall be permitted to have all the money that shall be necessary to enable them to utilize his inventions, all their present complaints of poverty and toil will rapidly disappear. It is, therefore, not only gross injustice, but the worst of policies, to deny to scientists and inventors their right of property in their discoveries and inventions.

It is manifest that the mass of mankind can lift themselves out of their present poverty and servitude only through the aid of science, invention, machinery and money. It is manifest, too, that we can set no limits either to the variety or amount of wealth that mankind are capable of producing, if only full scope be given to science, invention, machinery, and money. It is also obvious that the greater the diversity and amount of production, the more equally and equitably will wealth be distributed ; since every separate industry gives a support to a separate body of producers ; and when all industries are free, the tendency of all — especially of all such as must occupy the great body of the people — is to come to one common standard of compensation.

No. 1.

REVOLUTION:

THE ONLY REMEDY FOR THE OPPRESSED CLASSES OF
IRELAND, ENGLAND, AND OTHER PARTS OF THE
BRITISH EMPIRE.

A REPLY TO "DUNRAVEN."

(SECOND EDITION.)

A REPLY TO "DUNRAVEN."

TO THE MAN IN IRELAND, WHOSE NAME IS BELIEVED TO BE
QUINN, BUT WHO SIGNS HIMSELF "DUNRAVEN."

SIR,—Your letter of Jan. 1, 1880, addressed to the *Editor of the New York Herald*, and published in the *Herald* of Jan. 7, deserves an answer, for the reason that it undoubtedly expresses not only your own sentiments, but also those of the class to which you belong. It virtually announces, and was evidently intended to announce, to the Irish people, both in Ireland and America, and to all other persons interested, that the landlords of Ireland, —backed, as you claim that they are, by the whole power of "the British Empire" — are determined to drive what you consider the surplus population of Ireland out of the country by starvation. You virtually say that all this feeding the starving Irish in their own country, is merely money and mercy thrown away; that as nothing but starvation will ever induce them to go, the sooner they are left to see that they have no other alternative, the better it will be for them, and for everybody else.

If you had, in so many words, threatened to drive them out by the bayonet, you could hardly have been more explicit. This makes it necessary that not only the Irish people, but that everybody else who feels any interest in such a matter, should inquire by what right you propose to do all this; and also whether you really have the physical power necessary to do it.

The following address to them, and this letter to yourself, are intended to show not only that you have neither the right, nor the power, to drive them out, but that they, and others similarly situated, have both the right and the power to drive you, and all

your abettors, out of both Ireland and England; and also, if need be, from off the face of the earth.

If you, and others like you, in England and Ireland, are prepared to meet this issue, we think that other men — men who believe that human beings have rights in this world, and that such a government as that of “the British Empire” has no rights at all — will, at no distant day, be ready, in sufficient numbers, to try conclusions with you.

The whole force of your letter, as a defence of Irish landlords, rests upon the assumption that they are the real and true owners of the lands they now hold. But this assumption is a false one. These lands, largely or mostly, were originally taken by the sword, and have ever since been held by the sword. Neither the original robbers, nor any subsequent holders, have ever had any other than a robber’s title to them. And robbery gives no better title to lands than it does to any other property.

No lapse of time can cure this defect in the original title. Every successive holder not only indorses all the robberies of all his predecessors, but he commits a new one himself by withholding the lands, either from the original and true owners, or from those who, but for those robberies, would have been their legitimate heirs and assigns.

And what is true of the lands in Ireland is equally true of the lands in England. The lands in England, largely or mostly, were originally taken by the sword, and have ever since been held by the sword; and the present holders have no better titles to them than simple, naked robbery has given them.

If the present holders, or any of their predecessors, in either Ireland or England, have ever purchased any of these lands, they have either purchased only a robber’s title to them, or they have purchased them only with the profits or proceeds of previous robberies. They have, therefore, never had, and have not now, any real titles to them.

For these reasons, the present holders of lands generally, in either England or Ireland — whether they hold them by inherit-

ance or purchase—have no whit better title to them, than the highwayman has to the purse he has taken from the traveller, or than the pirate has to the ships and cargoes he has captured on the ocean.

It cannot be supposed that you are so stupid as to be ignorant of all this; and you seem to be conscious of it—and also of the fact that these lands are to be holden, if at all, only by the sword, in the future, as they have been in the past—when you say that—

“The liability [of the actual cultivator] to pay rent can be evaded only by overturning the whole social structure of the United Kingdom,”

Your opinion on this point is doubtless correct. But what does “the whole social structure of the United Kingdom” amount to? To this only: That the original robbers and holders of these lands (in both England and Ireland), with such accomplices as they have, from time to time, induced to join them, have now, for many hundreds of years, constituted a conspiracy—that is, have organized themselves into what they call a government—for the purpose of sustaining each other in the possession of all the lands they have seized; and also for the purpose of plundering and enslaving all the descendants of those from whom the lands were originally taken; and for the still further purpose of plundering and enslaving, as far as possible, all other peoples in other parts of the world. This conspiracy has existed in an organized form,—that is, in the form of both State and Church,—for many hundreds of years. And it is this conspiracy, and nothing else, which you attempt to dignify by the name of “the whole social structure of the United Kingdom.”

Do you really think that an “overturning” of such a “whole social structure” as this would be any great calamity, either to the “United Kingdom,” or to the world at large? Would it not rather be the opening of a day of freedom for more than two hundred millions of enslaved people, “British subjects,” so-called;

to say nothing of its influence on other "social structures," of like character, in other parts of the world?

But you evidently consider such an "overturning" impracticable, for you say, —

"It is not likely that the Irish, in and out of Ireland, will combine to wage war upon the British Empire; neither is it very probable that they would be successful."

By this you mean that this confederacy of robbers and tyrants — small in numbers, but constituting the only real ruling force of what you call "the British Empire" — is too well organized, too compact, too rich, and too powerful, and has too much at stake, to be successfully resisted, or, as you say, "overturned."

But in this you may be mistaken. Less than a century ago, "the whole social structure" of France was "overturned," notwithstanding all, or nearly all, the other "social structures" of Europe combined to sustain it. Do you imagine that the other "social structures" of Europe will ever combine to sustain "the whole social structure of the United Kingdom," as they once combined to sustain that of France? You know that nothing of that kind will ever take place. You know that, henceforth, each of "the social structures" of Europe must take care of itself as best it may; and that already most of them are tottering to their fall. You know that all European combinations, in the future, are to be combinations to "overturn" existing "social structures," and not to sustain them.

How, then, do you think that that confederacy of robbers and villains, whom you call, and who imagine themselves to be, "the British Empire," will fare, when the trial comes? And how far off do you imagine that trial to be?

Do not deceive yourselves in this matter. You are really few in number, and easily distinguished from the great body of those whom you and your predecessors have plundered and enslaved. The very wealth in which you so pride yourselves, and on which you rely as a means of safety, is really an element of weakness. It is not yours. It is all stolen property. It consists only of the

spoils that have been accumulated through centuries of robbery and extortion. If those, and the descendants of those, from whom all this wealth has been taken, shall combine to take it from you, it will be only an act of just and lawful reprisal and retribution. And it now offers itself to them as the richest prize, of this kind, that was ever offered to men on earth. Do you not think they will take it?

The fact that the direct descendants of the original holders of these lands cannot now be individually traced, and reinstated in the property of their ancestors, cannot screen the present holders from their just liability; since the original robbery of the lands, and the entailing them in the families of the original robbers, have not only deprived the direct descendants of the original holders of their rights, but have also deprived all other persons of their natural rights to buy these lands. These other persons, therefore, as well as the direct descendants of the original holders, have a wrong to be redressed. And these two classes, as they cannot now be distinguished from each other, should make common cause.

In addition to all this, these conspirators have, *as a government*, oppressed, robbed, enslaved, and made war upon, everybody, indiscriminately — in England, Ireland, and throughout what you call “the British Empire” — whom they could oppress, plunder, or subdue. *In this way*, then, as well as through the original robberies of the lands, they have incurred a liability to everybody, who has, *in any way*, suffered at their hands. Whenever, then, the day of settlement comes, there will be some two hundred and fifty millions of people, who will be entitled to satisfaction for the wrongs you have inflicted upon them.

And do not imagine that the present landholders alone are to be finally held liable. All who have been voluntary accomplices with them — and all who have voluntarily aided in upholding the British government, have been accomplices with them — have justly incurred the same penalty as the landholders themselves. Among these accomplices have been your great manufacturers, merchants, bankers, ship-owners, money-lenders (lenders of money to the government) — everybody, in fact, high or low, who has voluntarily been part and parcel of the British government — have been accomplices in the thousand crimes by which the people at large,

throughout the Empire, have been plundered and enslaved. And having been such accomplices, their property may as rightfully be seized for purposes of reparation, as may the lands of the landholders themselves; for every member of a conspiracy shares in the guilt of all the others; and is equally liable with them to be coerced into making restitution and compensation.

Sir, From the ancient time, criminals of a certain class have been designated as *hostes humani generis: enemies of the human race*. They received this designation because their crimes were committed, not from any special malice towards particular victims, but solely from motives of plunder; and they were wholly indifferent as to the name or nation of the persons to be plundered. They as willingly robbed, and, if need were, murdered, the people of any one country, as of any other. It being their practice to plunder, to the extent of their ability, all mankind indiscriminately, they naturally and justly came to be regarded as enemies of the whole human race. And from this fact it necessarily followed that they might justly and rightfully be killed, whenever and wherever they could be found, and by whomsoever could kill them.

This designation — enemies of the human race — has more generally been applied to pirates; to men who committed their crimes upon the sea. But there have been other *hostes humani generis*; men devoted to plunder, who committed their crimes upon the land; and who were equally indifferent, with pirates on the sea, as to the persons on whom their crimes were committed. The ruling classes in England, from the time the Anglo-Saxons first came there, have been *hostes humani generis: enemies of the human race*. They have had only one motive, viz.: plunder. And so long as this motive was gratified, they have cared not whom they plundered, enslaved, or murdered.

The Anglo-Saxons were robbers and pirates in their own country, two thousand years ago; robbers on land, and pirates at sea. Such was their sole business. The men performed no useful labor. Their useful labor was all performed by their women and their slaves. They themselves, as history tells us, scorned to labor for anything they could take by force. They came into England on their usual errand. They seized the country by military power,

and reduced the native Britons to slavery. And they have maintained this character ever since. The Normans were equally robbers. The real government of England, the actual ruling power, for more than a thousand years, has been a mere band of robbers; a mere confederacy of villains. And it is nothing else to-day. They have not only plundered and enslaved the great body of the people of England and Ireland, but, as far as possible, the peoples of all other parts of the globe. They have their chains to-day upon more than two hundred millions of people; and their whole purpose is to extort from them everything that oppression, in every form, is capable of extorting.

Do you imagine that when this band of villains — these enemies of the human race — come to receive their dues, at the hands of two hundred and fifty millions of their victims, justice or mercy will have anything to offer in their behalf?

Sir, To the plundered and starving population of Ireland, you say, in effect, and nearly in these words:

“We, the landlords, have no use for you; we have nothing for you to do; we will not feed you; and you cannot feed yourselves. Why, then, do you stay here? Your only salvation is in emigration; and the sooner you go, the better it will be for yourselves, and for us.”

And you conclude your letter with these words, which are among the vilest that were ever written by human hands:

“Why such people [as those Irish, who dream that they can ever again become the owners of Ireland] are permitted to exist, is a marvel. It is best to try and be philosophical, and reflect that the ways of the Lord are inscrutable, and past finding out; and that possibly they may fulfil some use in the economy of nature so obscure as not to be discernible to mortal eye.”

All this is equivalent to your saying: —

“We have taken from you your country, and all your means of living in it. You have nothing more that we can take; and we therefore wish to have nothing more to do with you. By remaining here, you give us no end of trouble, and bring upon us no end of disgrace. You accuse us of starving you to death, and yet you stay with us. If you do not like us, why will you not go, and leave us alone? We want nothing of you; we hate the very sight of you, and wish to get rid of you. It is “inscrutable” to us why the Almighty “permits people to exist,” who are of no use

to us, whose presence is offensive to us, who are forever accusing us of having robbed them of everything they had, and who nevertheless persist in staying with us against our will."

Sir, It is to be hoped that "the ways of the Lord" may soon be made more intelligible to you; that you may be made to know "why such people" as the Irish "are permitted to exist"; what "use in the economy of nature" they "fulfil"; and even why they are permitted to make you so uncomfortable. Perhaps you may come to know that this world and all its inhabitants were not created with a sole view to your pleasure; that for some good reason, in which neither your ease, your pride, your avarice, nor your ambition was consulted, the Almighty saw fit to create other men, and give them rights equal to your own; that their happiness is quite as important as yours; and that these men, whom you now trample upon with such scorn, may yet be strong enough to teach you, in a rough way, such lessons of humility and justice, as have sometimes been taught to tyrants before, and such as will be very bitter to a man like you. You may, however, have this one consolation—that should you ever have all this knowledge forced upon you, it will assuredly make you a much wiser and better man than you are now. And this knowledge, that will be so beneficial to yourself, will be equally useful to your associates, the queens, princes, dukes, earls, and the like, who now feel and reason as you do.

It is also to be hoped that the time is not distant, when somebody will be glad to emigrate from both England and Ireland. But who are to be the emigrants? This is the vital question. You will remember that, in similar circumstances, in a neighboring nation, the class who, one day, ruled all France, thought they owned all France, and felt that they, and they alone, were France, the next day found it convenient to emigrate; leaving everything behind them, to become the property of those, whom, up to that time, they had trampled under foot. May we not see the same thing in England and Ireland?

Sir, the plundered people of England and Ireland need neither emigration, legislation, mitigation, nor modification. They need, and if they do their duty to themselves and to you, they will have,

**REVOLUTION, RETRIBUTION, RESTITUTION, AND, AS FAR
AS POSSIBLE, COMPENSATION.**

TO ALL THE OPPRESSED CLASSES IN ENGLAND, IRELAND,
AND THROUGHOUT THE BRITISH EMPIRE.

The foregoing letter, to the so-called Earl of Dunraven, attempts to show you your true relations to the ruling classes of the British Empire; and also the true and only remedy for the wrongs which their ancestors practiced upon your ancestors, and which they themselves are now practicing upon you. Do not imagine that the Parliaments and Courts of oppressors will ever right the wrongs of the oppressed. They exist for no such purpose. Such a thing has never happened, and never will. Take the redress of your own wrongs into your own hands, as you are abundantly able to do, if you are only united, determined, and have clear ideas of your rights, and of what is needful to secure them. Your numbers are so great, in comparison with those of your oppressors, as to put their lives and their property wholly in your power, if you so will it. They have no thought of doing you justice. They have no purpose but to keep so many of you in poverty and servitude as they can make serviceable to themselves, and drive the rest of you out of the country by starvation. And they will do this, as they have heretofore done it, unless you yourselves put an end to their power. Wipe out, then, these feudal robbers—the whole race of kings, and queens, and nobles, and all their accomplices in every grade of life, and take possession of all the spoils which they and their predecessors have wrung from you and your ancestors. Put an end to their Parliaments and Courts. Blot out forever their statute books. They contain little or nothing else than the records of their villainies. Free England and Ireland, and thus all the rest of the empire, of the tyrants and robbers that are plundering, enslaving, and crushing, and starving you.

A LETTER
TO
SCIENTISTS
AND
INVENTORS,
ON
THE SCIENCE OF JUSTICE, AND THEIR RIGHT OF
PERPETUAL PROPERTY IN THEIR DISCOV-
ERIES AND INVENTIONS.

BY LYSANDER SPOONER.

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LETTER.

SECTION I.

To Scientists and Inventors:

YOU are the great producers and diffusers of knowledge and wealth. Your scientific discoveries and mechanical inventions are the great, almost the only, instrumentalities by which the world at large is enlightened or enriched. You, Scientists, explore Nature for her facts and laws, which, violated through ignorance or design, bring upon mankind want, disease, misery, and death; but which, known and accepted as guides, bring to them not only great material wealth, but also life, health, and strength of both body and mind. And you, Inventors, devise and explain to us the application of mechanical forces, by which men's powers of providing for, and satisfying, their wants and desires, are multiplied a thousand, ten thousand, a hundred thousand fold.

Your discoveries and inventions, the value of which no man can measure, are not, like our material wealth, consumed, or worn out, by use, nor do they decay by time. They are not, like our material wealth, local and limited in their nature; but each and all of them can be diffused all over the globe, and be utilized by all peoples, not only without conflict, but with mutual and universal benefit.

For the want of your discoveries and inventions, mankind, through many thousands of years, have remained savage, barbarous, or, if in any degree civilized, still poverty-stricken, short-lived, feeble, ignorant, superstitious, enslaved in both body and mind. And such is the condition of more than a thousand millions of the world's people to-day. And such it will remain for

thousands of years to come, unless they can have the benefit of such discoveries and inventions as you are making, and offering to them ; and such as they would accept and utilize, if their governments did not deprive them of all power to do so.

In spite of all the obstacles which these governments have constantly placed in their way, these discoveries and inventions have, of late years, and in some portions of the world, made progress. And nobody knows so well as yourselves, how much greater this progress would be, if all men of scientific and inventive minds, all over the world, had all the inducements and means that they might have, and ought to have, for prosecuting their investigations and experiments.

Your own rights and interests, and the rights and interests of mankind at large, are identical in this matter. It is your own right, and for your own interest, that you should have all the inducements and means that you honestly can have, for prosecuting your investigations and experiments, and producing all the discoveries and inventions that you are capable of. It is also the right, and for the interests, of mankind at large, that you should have all those inducements and means, because it is only through the greatest number of discoveries and inventions, that mankind are to be most highly enlightened and enriched.

What, then, are these inducements and means, which you need, and have a right to, and which it is the right, and for the interests, of mankind at large, that you should have? They are these:

1. The same right of *perpetual* property in the products of your brains, that all other men are justly entitled to have in the products of their hands.
2. The same protection, by both civil and criminal law, for the products of your brain labor, that other men are justly entitled to have for the products of their hand labor.
3. The same right of *perpetual* property in your discoveries and inventions, in all the other countries of the world, as in your own.
4. It is the right, and for the interests, of all past discoverers and inventors, and of their heirs, to recover their natural right of *perpetual* property in their discoveries and inventions, which has

hitherto been denied or withheld by the ignorant and tyrannical governments that have heretofore existed, and now exist, in the world.

5. It is also the right, *and for the interests, of mankind at large*, that the right of perpetual property, in their discoveries and inventions, should be restored to all past discoverers and inventors, *and to their heirs*, so far as they can now be ascertained.

6. It is your right to have all the money you need, and honestly can have — that is, all the money that freedom in banking would give you — not only for making your discoveries and inventions, but also for carrying them all over the world, and putting them into actual operation.

7. It is your right, and for your interests, as well as their own, that all mankind, all over the world, should have all the money they need, and honestly can have — that is, all the money that freedom in banking would give them — to enable them to utilize your discoveries and inventions as fast as they are made, and to distribute to consumers all the wealth that your discoveries and inventions will enable them to create.

How are all these propositions to be realized? In other words, *how are they all to be established as law*, in all the different countries of the world?

The general answer to this question is, that these propositions are all to be established as law, all over the world, by showing their truth and justice to all peoples; and also by showing, not only their adaptation, but their necessity, for promoting the highest enlightenment, and the greatest enrichment, of all the peoples of the earth.

But a more particular answer is needed. And it will now be given, by showing not only the truth and justice of the several propositions themselves, and their adaptation and necessity to produce all that is now claimed for them, *but also by showing that scientists and inventors have it in their own power, while promoting their own highest interests, to accomplish the whole work.*

SECTION II.

Before proceeding to the consideration of the preceding propositions, it is your right, and for your interests, to have this one question decided, viz. : Whether your scientific discoveries and mechanical inventions, by which, incomparably beyond all other men, you are enlightening and enriching mankind, are, *in their nature*, an equally legitimate property, and entitled to the same legal protection, as are the products of men's manual labor? Or whether that mere pittance of protection, which is allowed to them in a few countries, and not at all in others, is all the reward to which your labors are entitled?

When this question shall be rightly answered, all the other questions must necessarily be rightly answered, too. *And this question is really and finally answered by the single fact that knowledge is property.*

That knowledge is wealth — and wealth, too, of the greatest value — no man of sense will deny. Why, then, is it not property? And subject to all the laws of property?

Knowledge is property. It is a property that is really acquired only by labor of mind, or body, or both ; oftentimes only by great labor of both body and mind. It is also a property that is extensively bought and sold, like other property, in the market.

It is true that a vast amount of knowledge — knowledge, too, of great intrinsic value — is so common, from having been acquired by each one's own experience and observation, that it bears no price in the market ; but that does not affect the principle, that all knowledge, that will bring a price in free and open market, is as legitimate a subject of bargain and sale as is any material commodity whatever.

Even so common and simple a knowledge as that of the alphabet has its market value, and is rightfully bought and sold. The young girl, who knows the alphabet, is rightfully paid for imparting that knowledge to those younger, or less enlightened than herself.

On the other hand, the highest kinds of knowledge — or, at least, what passes for such in this ignorant world — is constantly and openly bought and sold, oftentimes at enormous prices.

Thus legislators, judges, lawyers, editors, teachers of all kinds, physicians, priests, and soldiers, are continually selling their knowledge — and, perhaps, quite as frequently their ignorance and falsehoods — for money.

Legislators are continually selling such knowledge — or, rather, such ignorance and falsehoods — as these, viz. : That they themselves are rightfully invested with absolute and irresponsible dominion over the property, liberty, and lives of their fellow men ; that their discretion, in the exercise of this power, can rightfully be restrained by no natural principles of justice ; that their commands are authoritative and final, and the only imperative rule of action for all whom they call their subjects ; that resistance to their laws, as they call them, is the greatest of crimes, and may rightfully, and must necessarily, be punished with confiscation, imprisonment, and death. In all ages, the mass of mankind have been compelled to pay, with their property, liberty, and, in vast numbers of cases, with their lives, for such knowledge—or, rather, for such monstrosities, absurdities, and falsehoods — as these.

Under the name of knowledge, judges, lawyers, and editors are constantly affirming, repeating, and reiterating these monstrosities, absurdities, and falsehoods of the legislators ; and are taking their pay for so doing, as if they were really selling the most valuable commodities.

Surely it does not lie in the mouths of these legislators, judges, lawyers and editors, who live and flourish by selling such falsehoods as these, to say that the scientific discoveries and mechanical inventions, which are every day demonstrating their power to enlighten, enrich, and liberate all mankind, are not legitimate property, that may rightfully be bought and sold.

The knowledge of the soldier — such as it is — is in great demand. To him who knows how to kill the greatest number of men, in the shortest time, and for the most frivolous or unjust causes, his knowledge is his fortune. Legislators are so constantly dependent upon it for their very existence as legislators, that they pay enormous sums for it — but always out of other people's money.

Physicians, in all ages, have been freely selling their knowledge — or, more commonly, their ignorance and falsehoods; and the purchasers have been paying for them with their property, their health, and their lives.

Does it lie in the mouths of these physicians to deny that scientific truths and mechanical inventions are legitimate subjects of property?

Priests have for ages been selling, under the name of knowledge, absurd dogmas and creeds, which they described as sure to carry the believer in them to a future world of eternal and indescribable happiness, and as equally sure to carry all unbelievers in them to a future world of eternal and indescribable woe. And they, in conspiracy with legislators who needed their aid, have compelled the mass of mankind to pay for this so-called knowledge, under the alternatives of imprisonment, torture, and death. But they have never demonstrated the truth of their dogmas. No one of their number has ever gone to the future world, and brought back the information that their so-called knowledge was anything other than ignorance and falsehood.

Does it lie in the mouths of these priests to say that scientific discoveries and mechanical inventions, whose truth and utility are being constantly demonstrated before all the world, are not legitimate subjects of property? or, consequently, of free bargain and sale?

Will the people themselves, whose ancestors, for thousands of years, have been swindled out of their common sense, their property, health, liberty, and lives, by these venders of ignorance and falsehood, under the name of knowledge—and who are now being swindled in the same way themselves—will they deny that such veritable realities as scientific discoveries and mechanical inventions—discoveries and inventions that have demonstrated their power to fill the earth with knowledge, and health, and wealth, and liberty—are legitimate subjects of property, that may freely and rightfully be bought and sold? Will they choose to pay—as they and their ancestors hitherto have done—with their property, health, liberty, and lives, for such ignorance, falsehood, oppression, robbery, and ruin, as have hitherto been dealt out to them, rather

than for such health, wealth, truth, justice, and liberty as scientists and inventors offer them ?

And, finally, will not scientists and inventors themselves, while establishing their own rights to their own property, give themselves to the work of establishing justice, *as a science*, in place of the absurdities, the falsehoods, the chicanery, the usurpations, and the arbitrary, irresponsible power of the ambitious, rapacious, and unprincipled men, by whom the world is now ruled, and who make mankind their dupes and their prey ?

If they will but do this, the work will soon be accomplished.



SECTION III.

Assuming it now to be settled that your discoveries and inventions are, *in their nature*, a legitimate property, the first of the propositions before mentioned to be established is this, viz. : That, in truth and justice, scientists and inventors have the same right of *perpetual* property in the products of their brain labor, that other men have in the products of their hand labor.

This proposition is established by the simple facts that knowledge is property, and is, in its nature, durable, vendible, and transferable ; for all property, in things durable, vendible, and transferable, is, in its very nature, perpetual, and a legitimate subject of devise and inheritance. And no formal will or testament is necessary to convey a man's property, at his decease, to his so-called natural heirs — such as his wife and children — or, in the absence of such, to his nearest blood relations. The facts that, during his life, his moral duty and natural affection prompt him to acquire wealth, and expend it for the support and happiness of these so-called natural heirs, rather than for others whom he does not know, or, knowing, does not love, furnishes a sufficient proof, or at least a sufficient presumption, that, at his death, he desires them to possess the property he leaves behind him ; and nothing but the clearest proof to the contrary is allowed to defeat that presumption. And for a government to confiscate, after his death,

this property, which he had produced or accumulated for their support or benefit, would be as gross and cruel an act of tyranny and robbery, as it would be to confiscate it during his lifetime. And the common sentiments of mankind have concurred in this opinion. And this principle is plainly as applicable to intellectual, as to material, property. And the fact that this principle has heretofore been wholly, or partially, disregarded in its application to intellectual property, is only a proof of the ignorance, or villainy, of the governments that have ruled the world.

But let us look further into this right of perpetual property.

When a man digs into the earth, and finds, and takes possession of, a diamond, he thereby acquires a supreme right of property in it, against all the world; and this right of property becomes perpetual in his heirs and assigns.

So, also, when a man dives into the sea, and brings up a pearl, he thereby acquires a supreme right of property in it, against all the world; and this right of property becomes perpetual in his heirs and assigns.

This right of perpetual property is the reward that nature offers to those who take upon themselves the labor of discovering her secret wealth, and making it available for man's use.

By the same rule, when the scientist, in his laboratory, discovers that, in nature, there exists a substance, or a law, that was before unknown, but that may be useful to mankind, he thereby acquires a supreme right of property in that knowledge, against all the world; and he may either use it himself, or sell it, or lend it to others for use, the same as he might rightfully do with any material property. This is the reward that nature offers him for his labor.

And this right of property is as much a perpetual one, as is the right of property in the case of the diamond, or the pearl.

And to deprive him of this right of property after a given number of years, is as much an act of pure usurpation and robbery, as it would be to take from the diamond digger and the pearl diver, the products of their labor, after a given number of years.

So, too, the inventor, who acquires a knowledge of mechanical forces, and then applies and combines them in a manner before

unknown, and so as to produce a machine that will perform the labor of a hundred, a thousand, or ten thousand men, thereby acquires a supreme right of property in his invention, and may rightfully hold it against all the world. He may either use it himself, or sell it, or lend it to others for use, at his pleasure. This right of property is, in its nature, a perpetual one in himself, his heirs, and assigns ; and to deprive him of it, after a given number of years, is as much an act of usurpation and robbery, as it would be to rob the diamond digger, or the pearl diver, of his property, after a given number of years.

It is for the highest interests of all mankind, that this right of perpetual property, in the scientist and inventor, should be acknowledged and maintained.

It is for the highest interests of all mankind, that each and every man should have a right of perpetual property in the products of his own labor ; because it is this right alone that can stimulate every man to the highest exercise of his wealth-producing faculties of both body and mind. And the more a man produces for himself, the more he produces for all other men ; for in that division of labor which science and invention give rise to, each man usually consumes but a very small portion of the particular wealth he produces. The surplus he gives to other men in exchange for the various kinds of wealth they produce respectively. The more, therefore, each one produces, the more all finally receive for their own consumption.

How many diamonds would ever have been digged from the earth, or how many pearls would ever have been taken from the sea, if they had all been confiscated in a few years after they had been obtained ? How much gold, or silver, or copper, or iron, or any other metal, would ever have been taken out of the earth, for the benefit of mankind, if they had all been confiscated in a few years after they had been mined ? How many farms would have ever been reclaimed from the forest, and brought under cultivation, and made to produce food for man, if they had all been confiscated in a few years after they had been made productive ? How many comfortable dwellings would ever have been built, if they had all been confiscated soon after they had been made fit for habitation ?

How many factories would ever have been built, and filled with machinery, for the production of a thousand, or ten thousand, different kinds of wealth, if they had all been confiscated soon after they were fitted for the uses for which they were designed.

The same arguments, both of justice and expediency, which are applicable in favor of the right of perpetual property in material things, are applicable in favor of the same right of perpetual property in all the scientific discoveries and mechanical inventions that the human mind is capable of producing. And it is because no such — nor indeed any other special — right of property has, until recently, been acknowledged, that the world has heretofore been, and, for the most part, still is, so nearly destitute of all the sciences and inventions by which it would otherwise have been enlightened and enriched.

Even in those small portions of the earth in which *some* encouragement has, of late years, been given to science and invention, we doubtless have very little, almost no, conception of what would be the increased number of discoveries and inventions, if the right of perpetual property in them were acknowledged and protected, in the same manner as is the right of property in material things.

SECTION IV.

The second proposition to be established is this, viz. : That scientists and inventors are justly entitled to have the same protection, by both civil and criminal law, for the products of their brain labor, that other men are justly entitled to have for the products of their hand labor.

The truth and justice of this proposition are too nearly self-evident to need much argument in their support.

If a man's scientific discoveries and mechanical inventions are as truly his property as are his houses or lands, then it is plain that any trespass upon them is as clearly a crime as is a trespass upon his houses or lands. And there is the same practical neces-

sity for punishing criminally trespasses against a man's intellectual property, as there is for punishing criminally trespasses against his material property.

What security could any man have for the quiet possession of his house or his farm, if every other man, who coveted them, but had no color of right to them, could be permitted to take possession of, and use them, and make it necessary for the owner to carry on an expensive and protracted civil suit against each one of these trespassers? It is plain that it would cost him more to defend his house and farm than they were worth; and that his right of property in them would be practically destroyed. This argument is just as strong in favor of punishing criminally trespasses upon intellectual property, as it is for punishing criminally trespasses upon material property.



SECTION V.

The third proposition to be established is this: That scientists and inventors should have the same right of perpetual property in their discoveries and inventions, in all the other countries of the world, as in their own.

This proposition, like the preceding one, is too nearly self-evident to need much argument in its support.

The natural, and only real, right of property is the same throughout the world; and it is only the ignorance and tyranny of the different governments of the world, that make the practical right of property different in different countries.

When justice, *as a science*, shall be established, as the one only law, in all the countries in the world, the right of property in scientific discoveries and mechanical inventions, as well as in material things, will be one and the same all over the world.

SECTION VI.

The fourth proposition to be established is this, viz : That it is the right, and for the interests, of all past discoverers and inventors (where their patents have expired), and of their heirs, to *recover* their natural right of perpetual property in their discoveries and inventions, which has hitherto been denied or withheld by the ignorant and tyrannical governments that have hitherto existed, and now exist, in the world.

This proposition, too, like the preceding ones, is too nearly self-evident to require much argument.

Plainly, scientists and inventors have never voluntarily parted with their natural right of property in their discoveries and inventions. They have never forfeited their right to them by crime. Those who have had the benefit of them, and are now using them, have never bought them, or paid for them, or made any kind of contract with the owners for the use of them. The only reason why the authors of them (or their heirs or assigns) are not now in the full enjoyment of their right of property in them, is that governments, in their ignorance or villainy, have refused either to acknowledge or protect the right at all, or to protect it beyond a limited time ; and have thus practically licensed all trespassers to make free plunder of what was the rightful private property of the discoverers and inventors.

To this free plunder of their property, the discoverers and inventors have been obliged to submit, for the time being. But their true and natural right of property has not been lost, or affected, thereby. They have the same true and natural right of property in their discoveries and inventions that they ever had. And they have now the same right to demand the recognition and protection of their rights, that other men have to demand the recognition and protection of their rights to their material property.

Where the discoverers and inventors have died, their descendants have the same natural right of inheritance in their discoveries and inventions, as other men's descendants have in the material property of their ancestors.

That the immense value of their discoveries and inventions should now unite all scientists and inventors, (whose patents have expired,) and their heirs, in the effort to recover their rights to them, is too plain to need argument.



SECTION VII.

The fifth proposition to be established is this, viz.: That it is the right, *and for the interests, of mankind at large*, that the right of perpetual property, in their discoveries and inventions, should be restored to all past discoverers and inventors, and to their heirs, so far as they can now be ascertained.

The truth of this proposition rests, in the first place, upon this basis, viz.: That it is only when all men are protected in their natural right of property in the products of their labor, that all men are stimulated to the production of the greatest amount of wealth they are capable of producing, and each and every man is consequently enabled to give the greatest amount of wealth in exchange for the wealth produced by others. It is, therefore, the right, and for the interests, of every man, who produces any kind of wealth *for sale*, that all other men, who are to buy his wealth, should be enabled to produce as much as possible themselves, and thus be enabled to give as much as possible in exchange for his.

Every man, who believes in men's natural right of property in the products of their labor, will acknowledge the truth of this principle, *as applicable to the future*. But perhaps some will be so unwise, as well as dishonest, as to dispute the principle *in its application to the past*; and will say that the world having once got possession of a vast amount of intellectual property for nothing, it would now be foolish to give it back to its true owners.

There is some difficulty in reasoning with men who do not believe that honesty is the best policy in all cases whatsoever; men who believe in theft and robbery, whenever they are strong enough to practice them with impunity. But inasmuch as there are a great many such men in the world, and inasmuch as they are

now, and always have been, the ruling powers of the world — that is, the chief governors of the world — and inasmuch as they are the class who will most powerfully oppose the rights of all scientists and inventors, both past and future, it becomes necessary to show to others, if not to themselves, that this policy is as shortsighted as it is dishonest.

It has always been the policy of these bands of robbers, who have called themselves governments — in fact, it has in reality been the sole objects of their organizations, as governments — to rob all the producers of wealth, whether intellectual or manual laborers, of all the products of their labor, as fast as they were produced; leaving nothing in the hands of the producers that would enable them to produce more, or that would even enable them to produce their daily food, except as the servants, and by the permission, of these tyrants. And this is the reason — and not the want of scientific and inventive faculties — why, after so many thousands of years, there is so little of either science or invention in the world to-day; and why there is so little of any thing, for the mass of mankind, except poverty, ignorance, and slavery.

It is only within a very recent time — say a single century, or a little more — that any governments have secured to either scientists or inventors any really valuable rewards for their labors. And even within that time, they have only offered such mere temporary, and even trivial, rewards, as were thought sufficient to inspire their hopes, and induce them to produce something valuable, *of which they could be robbed*. And as soon almost as they have produced anything valuable, they have been robbed of it. Such is to-day the state of the laws under those few governments that alone profess to secure to scientists and inventors any rewards at all for their discoveries and inventions. And this state of things is likely to continue, and is almost certain to continue, until scientists and inventors themselves undertake the work of vindicating and establishing their own natural rights of property in their discoveries and inventions.

But the scientists and inventors themselves will see at once that they cannot consistently advocate their own rights to the

products of their own labor, *in the future*, unless they acknowledge and maintain the same rights for all past scientists and inventors, *and their heirs*, so far as they can now be ascertained. Every admission on their part, that all *past* scientists and inventors, *or their heirs*, may rightfully be robbed of their property, would be a practical confession that all *future* scientists and inventors may also be rightfully robbed of theirs. No *future* scientist or inventor, therefore, can consistently claim any rights of property for himself, except such as he is willing to accord to all *past* scientists and inventors.

But, secondly, it would be very bad policy for either present or future scientists or inventors to make any compromise with their enemies, or to attempt to secure any rights, or purchase any favors, for themselves, by repudiating the rights of any past scientists or inventors, *or their heirs*. In order to establish their own rights, they will need all the influence, *and all the financial capital*, they can enlist in the enterprise. And the pecuniary value of past discoveries and inventions is so immense, that its power can hardly be overrated.

Estimate—if that be possible—what would be the actual market value of all the scientific discoveries and mechanical inventions now extant (whose paternity can now be established), *if the right of property in them was made perpetual, all over the world!*

Can any present or future scientist or inventor be so idiotic as to imagine that he is to gain anything for his particular discovery or invention, by denying, or conceding away, the rights of the real owners of all this vast property in past discoveries and inventions? Or that he can vindicate or establish his own rights more easily, without enlisting the aid of all this capital, than he can by making common cause with it?

A scientist or inventor who should seek to curry favor for his own discovery or invention, by consenting to the confiscation of all other men's discoveries and inventions, would justly be regarded as the criminal confederate of the robbers and tyrants who now confiscate the discoveries and inventions of all other

men, whose labors and products are as worthy of protection as his own.

But perhaps these remarks are unnecessary. It is certainly to be hoped, and, I think, reasonably to be expected, that there can be few so foolish, or so unjust, as to consent to the robbery of all past scientists and inventors, as a condition of having their own rights acknowledged.

The study of science tends to make men not only truthful and just, but also far-seeing; and to lift them above all temptation to practice the meannesses and crimes of those who now rule the world by laws designed to rob one class of men for the benefit of another. And scientists and inventors have now such power, and such inducements, as men never had before, to crush out all the petty, temporary, local, selfish, and criminal schemes that now occupy existing governments; and to establish the reign of justice in their stead.

But we are taking too narrow a view of this subject.

It is not true that mankind at large — or more than one third, or perhaps even a fourth, of all mankind — are in *practical possession* of the scientific discoveries and mechanical inventions that have been made, and are now in use, in the most enlightened parts of the world — say, Western Europe and the United States. What practical knowledge of these discoveries and inventions have the seven or eight hundred millions of Asia, the two hundred millions of Africa, or the fifty or one hundred millions scattered elsewhere on the globe? *Or what practical knowledge will they ever have of them, unless the discoveries and inventions themselves are carried to them, and put in use among them, by persons from outside of these destitute countries? And who has any sufficient motive to carry them into, and put them in operation in, these destitute countries, unless it be the owners of the discoveries and inventions themselves?*

The peoples of these destitute countries have, therefore, substantially the same motives for paying for the use of all these *past* discoveries and inventions, as they have for paying for those that are to be made in the future. That motive is to get the practical use of the discoveries and inventions, and to get it at the earliest

possible time. Of what importance is the small amount they will have to pay for the use of them, compared with the benefits to be derived from them? *

But, furthermore. The sooner these past discoveries and inventions are carried into the destitute portions of the world, and the better the use of them is paid for there, the sooner the peoples of those countries will be enabled and stimulated to produce discoveries and inventions themselves; and their discoveries and inventions will come back to us, and add to our wealth, in the same way, and, with an immaterial difference, to the same degree, as if made by ourselves.

Now, these vast countries, containing a thousand millions of people, contribute, almost literally, *nothing* to our wealth, or we to theirs. They are constantly so near to starvation themselves, that they have scarcely anything they can give in exchange for anything we have to offer to them. They do indeed spare us a little tea, rice, indigo, opium, jute, etc., etc. But if they were to give us one really useful invention, it would be worth more to us than all these articles together. And if they were enlightened and enriched — as they would be by our carrying our discoveries and inventions to them, and putting them in practical operation — they would then become scientists and inventors themselves; and the commerce between us, in discoveries and inventions, would be worth millions of times more, both to them and to us, than the present petty commerce in material things.

Still further. The sooner this vast foreign field is opened to our scientists and inventors, the sooner they will be enabled and stimulated to the production of the greatest possible amount of discoveries and inventions for use at home.

And since this foreign field is not at all likely to be soon opened for our scientists and inventors, unless they open it themselves, it would be as impolitic, as it would be dishonest, to deprive all past scientists and inventors, and their heirs, of all motive and

* The probability is, I think, that if the right of property in all scientific discoveries and mechanical inventions, past and future, were made perpetual, all over the world, the discoverers and inventors themselves, and their heirs and assigns, would get not more than one per cent. of all the wealth created by means of them.

all power to carry their discoveries and inventions into the destitute countries, that are perishing for the want of them.

SECTION VIII.

A few words, now, as to the prospective increase of scientific discoveries and mechanical inventions, if their authors' right of perpetual property in them should be established.

As fast as mankind at large shall become enlightened and enriched by science and invention, and by a knowledge of justice as a science, the oppressions and wars—by which, in all past time, a few men have plundered, starved, enslaved, and butchered so large a portion of their fellow men, and made all progress in knowledge and wealth impossible—will necessarily cease; because the many being enlightened and enriched, the few will then be no longer able to deceive, conspire against, and overpower them, as they hitherto have done. Mankind will, therefore, not only live out their days, and enjoy the fruits of their labor, but they will also have much greater health and strength of both body and mind, and be capable of much greater physical and mental labor than they are now. Each successive generation will also have the benefit of all the scientific discoveries and mechanical inventions, that shall have preceded them, and they will, of course, produce a correspondingly greater number of such discoveries and inventions themselves.

Experience shows that each new discovery and invention generally gives rise to several, oftentimes to many, others. Thus discoveries and inventions will forever go on increasing in geometrical ratio.

But even this is not all. The earth, when cultivated with the aid of such science, implements, and machinery as men are capable of producing, can probably be made to sustain a hundred times its present population. And the increase of population will naturally go on, as men increase their means of subsistence, and

cease to starve and destroy each other. And this increase of population will, *of itself*, naturally bring a corresponding increase of scientific discoveries and mechanical inventions. Who, then, can set any limit to the future progress of mankind in knowledge and wealth?

Under the stimulus of this principle of property, mankind will soon become a very different, an almost wholly different, race of beings from what they now are. They will learn — what so few of them seem now to understand — not only that they have brains, but also what their brains were designed for, and are capable of. When these lessons shall have been learned, the knowledge that will be accumulated in consequence will become the great wealth of the world.



SECTION IX.

It is plainly to be seen, by those who choose to see, that science and invention are bringing, and are destined to bring, all the peoples of the earth together, and show them their power to promote each others' welfare, and their duty to live together in peace.

The only obstacle this great movement has now to meet, is that presented by ignorant, hostile, and tyrannical governments. It is plain that if all mankind are to live together in peace, and contribute their utmost to each other's welfare, they must get rid of their existing governments, and all live under one and the same, and only one and the same, law. That one law is the law of justice. This is the one only law the world needs, or can endure. Whatever other laws (so called) are either more, less, or other than justice itself, are necessarily unjust, and are therefore to be resisted and abolished.

Whenever, in any case whatever, this one law of justice is repudiated, violence and fraud are necessarily licensed in its stead.

But this one law of justice is a natural principle, and not any thing that any human power can make, unmake, or modify. Being a natural principle, it is a subject of science, and is to be learned like all other sciences. It is also the same in all places, and in all times ; and will remain the same in all places, and among all peoples, so long as the world shall stand.

The want of this one law is the only obstacle, not only in the way of your carrying your present discoveries and inventions all over the world, but also to such a multiplication of discoveries and inventions as doubtless mankind at large — nor even the most far-seeing of them — have ever conceived of.

You, above all other men, (I repeat) have the power and the inducements to carry this law all over the world, and establish its authority in opposition to all the adverse laws and governments that now exist.

In subsequent letters, and other separate publications, *if scientists and inventors shall favor the enterprise*, I purpose to show that it is perfectly feasible and easy to establish, *all over the world*, their right of *perpetual* property in their discoveries and inventions. In fact, unless scientists and inventors can maintain their own rights of property, and establish justice in the place of such transparent conspiracies and villanies as all the principal-governments of the world now are, it is plain that, instead of claiming to be the great lights and benefactors of mankind, they ought to write themselves down as imbeciles, cowards, and slaves.