

No. 7

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SPEECH



MR. CASS, OF MICHIGAN,

DELIVERED IN THE

SENATE OF THE UNITED STATES, MAY 15, 1854,

ON THE SUBJECT OF THE

RELIGIOUS RIGHTS OF AMERICAN CITIZENS RESIDING OR TRAVEL-  
ING IN FOREIGN COUNTRIES.

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## RELIGIOUS FREEDOM ABROAD.

The Senate having under consideration the motion of Mr. Cass, to refer to the Committee on Foreign Relations, the report made at the last session of Congress from that committee by Mr. Underwood, late a Senator from Kentucky, on the subject of the religious rights of American citizens residing or traveling abroad—

Mr. CASS said:

Mr. PRESIDENT: Agreeably to the notice I gave some time since, I shall now trouble the Senate with some remarks in support of the motion to refer the excellent report made by Mr. Underwood at the last session of Congress on the subject of the claim of American citizens to be protected in the freedom of religious worship abroad, to the Committee on Foreign Relations.

When this matter was first under consideration, I did not suppose a single man in the country could be found who would deny the principle involved in the application, or question the propriety of some kind of interference to assert and maintain it. It was no sectarian movement. It sought, not merely to protect a Catholic in a Protestant country, a Protestant in a Catholic country, a Jew in a Christian country, but an American in all countries. I earnestly advocate the proper action of the Government, not less in favor of our brethren of the Hebrew faith, than in favor of their Christian fellow-citizens. The descendant of the Patriarchs, and the believer in Jesus Christ, are entitled to the same protection. Jew or Gentile, all are equal in this land of law and liberty; and as the former suffers most from illiberal persecution, his case is entitled to the most commiseration, and sure am I that public sentiment would strongly reprove any attempt to create a distinction between them. And the protection demanded is not a claim inconsistent with the just laws of man, but one to secure to all our people the inalienable right of worshiping God agreeably to the dictates of their own conscience, and while yielding obedience to local legislation within the legitimate sphere of its operation. Aware, as I was, of that proneness to suspicion, which too often mingles itself with religious creeds, I did not once imagine it would discover, in a proposition as impartial as it was just, cause for alarm and for denunciation, as if it were intended

to promote the interests of particular sects, and not to secure the enjoyment of rights, which should be equally dear to every American citizen, whatever creed he adopts. But I have seen the error of my expectation that all would approve what equally interested all; and as the views since presented upon this branch of the subject, authoritatively, and from a high place, bear directly upon the question of our action, I shall take the liberty of examining them respectfully, but plainly, and with the less hesitation, as in the document to which I shall refer my course in this matter is criticised, if not arraigned and condemned, with that tone of confident superiority in the discussion which ought rarely to be assumed in polemical controversy. That document is in the form of a letter, addressed by Archbishop Hughes to the editor of the New York Freeman's Journal, and is, in fact, a review of the proceedings of the Senate at its last session in relation to this question of the religious freedom of American citizens in foreign countries.

It was published soon after the discussion here, and is headed "Religious Freedom. Letter from Archbishop Hughes. The Madiat, and the proceedings in the Senate of the United States."

This caption, or at least the latter branch of it, is the Archbishop's, for he begins by observing that the "heading of this communication suggests the matter it proposes to discuss." That matter involves the true question of religious freedom, and the proceedings to which its assertion had given rise in this body as well as elsewhere, and the object is to prove that we were all wrong, and that the claim on behalf of American citizens "to exercise their religion as their conscience may dictate," is in fact the result of a "confusion of ideas," for that the freedom of conscience which is here contended for is inviolable in its very essence, because conscience is not within the reach of legislation, and therefore always free, whatever external force may be brought to bear upon the body itself. The question thus resolves itself into the power of thinking, which is all a man can claim as a right; for beyond this is the province of the law-maker, who, "to a certain extent"—to what extent we are not told—may regulate the religious actions of men by the enactment of positive laws.



A position I deny emphatically, as I do the statement that such laws exist in this country. I deny that any human Legislature can rightfully interfere with acts of religious worship, I mean true religious worship, not impious pretensions founded in fanaticism or hypocrisy, and at war with the well-being of society, or that the statute-books of the different States of this Union are disgraced by such presumption.

As to the *Madiai* case, it was never before the Senate of the United States, and I do not see why Archbishop Hughes, after discussing the facts and principles assumed to be involved in it, and denying both, refers to it by saying that "connected with the case of the *Madiai* a new national policy has been broached in the Senate of the United States by no less distinguished a Senator than General Cass." For myself, I did not make the most distant allusion to this case, and I am strongly impressed with the belief that no one did; and certainly no proposition was offered in relation to it, nor was our action or opinion called for. And it is obvious that the principle involved in that memorable case—for it is destined to be a memorable one in the history of human intolerance—and those involved in the question of the immunity of American citizens abroad from religious persecution, are essentially different—the one touching only the power of a Government over the consciences of its own subjects, and within its own jurisdiction, while the other embraces the right of a country to watch the treatment of its expatriated citizens, and to shield them from oppression.

There is no necessary connection between cases thus widely separated, and they are brought illogically together in Archbishop Hughes's review, as subjects of discussion and action of the same general nature.

Before I proceed further, I desire to say that I entertain great respect for the character and services and station of the distinguished prelate who has thus made our proceedings, and especially my share of them, the object of public animadversion, adding to the force of his reasoning the influence of his position and the authority of his name. Nor shall I utter a word inconsistent with this sentiment, though certainly, as I have already said, I shall speak plainly, as is my right, in a matter where I have been strangely misunderstood, and where positions are maintained utterly inconsistent with the practical exercise of religious freedom or the rights of conscience.

The Archbishop calls the performance of this duty a *new national policy broached by me*. I am entitled to no such honor. The history of his country should have told him that it was a part of our policy when I was an infant, as I shall show by-and-by, introduced by great names, and recorded in the diplomatic annals of the Republic.

As to the alleged sectarian bearing, I disclaim and deny it emphatically. Archbishop Hughes, though he does not directly charge me with such a design, seems to intimate it, as a conclusion, either from the remarks I made, or from the course I pursued; and strange indeed is this deduction drawn from the premises he lays down. He says:

"Thus, without going out of our own country, Massachusetts has one form of public conscience, Louisiana another. Does Mr. Cass mean to say that an Abolitionist

from Boston, under the plea of liberty of conscience, has the right to talk in New Orleans, and preach, and harangue, and write, and publish, on the subject of slavery, as he might choose to do in Faneuil Hall? If not, I would say with all respect, that the policy in regard to this subject which General Cass advocates in the Senate, is calculated to have no practical effect either at home or abroad, except to stir up sectarian animosities against his Catholic fellow-citizens, and this is hardly worthy of his patriotic services, advanced age, or accumulated honors."

No, sir, I do not say so. I do not say that an Abolitionist from Boston, or from any other place, has the right to preach his doctrine to the slaves of the South. I say he has no such right thus, in effect, to strike at the very existence of society; and, by an act like that, he exposes himself to the punishment which the local laws have provided for so heinous an offense. And the error of this analogical reasoning is in the assumption that to preach abolitionism to a slave population is the mere exercise of a right of conscience, as inviolable in principle as the right to worship God freely and peacefully. That hypocrites might claim this exemption for the consequences of their acts is not to be wondered at in this day of strange things; but that a learned and highly esteemed prelate, speaking *ex cathedra* to the American people, should assume the same immunity for acts like this, caused by the wanton excesses of an ill-regulated or ill-instructed conscience, or justified by mere pretexts where there is no conscience at all—for no human tribunal can determine the honesty or dishonesty of such a pretension—with the worship of the Creator, equally dictated by reason and by revelation—is to me one of those truths only to be learned by actual observation, and which are almost stranger than fiction. As I shall have occasion to advert more fully to this pretension, which practically denies all the rights of conscience, in consequence of the abuses to which their exercise may lead, I shall here pursue the subject no further.

But I cannot pass over without a remark the observation of Archbishop Hughes respecting the tendency of the proposed measure "to stir up sectarian animosities against our Catholic fellow-citizens." This measure has no connection with religious sects. It seeks to elevate no one, to depress no one. The resolution proposed makes not the slightest allusion to any religious denomination; nor do I suppose there is one Senator, intending to vote for it, who will be influenced by any such consideration.

There are Protestant as well as Catholic countries where the true principles of religious freedom are denied; and there are Catholic as well as Protestant countries where they are freely enjoyed; and their recognition everywhere will be an inestimable benefit to all our citizens whom the accidents of life may require to leave their own country.

For myself, sir, it seems hardly worth while to disclaim all intention to stir up sectarian animosities, or to try to bring reproach upon the Catholic religion. The whole course of my life redeems me from such a charge. That man does not live who ever heard me utter one disrespectful word against that great branch of the Christian church, or against its priests or its professors.

I have lived a great portion of my life, both at home and abroad, surrounded by its members, and I have always done justice to the learning, and piety, and exemplary conduct of the clergy, and to the salutary influence of its principles upon



the laity of that church. I do not intend to be led from the path before me—that of defending a great principle—into other inquiries, unless so far as may be necessary to correct erroneous impressions respecting the true ground I occupy. I seek to know neither sectarians nor schismatics in the performance of such a duty.

But, sir, to return to the main subject, I now say what I did not say before, that, in my opinion, the course of the Tuscan Government in relation to that unfortunate family of the Medici was as incompatible with its true duty, and the spirit of the Gospel, as it was with the feelings and knowledge of the age. I am not going to review that case. It has passed into the domain of history, and that impartial tribunal will arraign and condemn alike the actors and the precedent, as furnishing one of the most flagrant violations of the rights of conscience recorded in the long chapter of religious intolerance. I cannot, however, but commend to the favorable attention of Archbishop Hughes the following just and liberal remarks, made in the British House of Commons by Mr. Fitzgerald. He said:

"As a Roman Catholic member of this House, I have not the slightest hesitation in expressing my unequivocal disapprobation of the most cruel sentence that had been carried out upon the Medici. [Hear! Hear!] It might be expected that I should go further, and express my opinion upon the cause of that punishment. Now, I do not know that, on the face of the correspondence, I am enabled to form an accurate judgment as to whether the law had been well applied or misapplied; but if I am to understand that any person fairly using the Scriptures, or endeavoring, by peaceable means, to propagate his opinions, is to be treated as guilty of crime, I can never yield my assent to such a doctrine. [Hear! Hear!] Indeed, it would come ill from me as a Catholic, and from the church of which I am a member, if such a doctrine were to be upheld, for they had their society for the propagation of the faith. [Hear! Hear!] This case ought not to be considered as one between Protestant and Catholic; it was one in which the civil and religious liberty of all was concerned. I, as a Roman Catholic, will ever raise my voice—ay, and, if necessary, my arm, to resist persecution of any kind. To attempt to coerce opinion had, at all times, been the mistake of all Governments."

These sentiments are honorable to the Speaker, and cannot fail to meet the cordial approbation of the American people, founded, as they are, upon those principles of religious freedom which make part of our very political existence.

But to pass from this signal display of Tuscan intolerance more directly to the consideration by Archbishop Hughes of my views in relation to the resolution before the Senate, I would remark, that he has met the subject in *limine* by a definition, or rather by metaphysical considerations, which he seems to think will remove the difficulties with which false logic has environed it. For ages, during the whole progress of society, indeed, the freedom of conscience has formed one of the great topics of interest and discussion, and has equally engaged the attention of the philosophical inquirer and of the practical statesman, while to the great mass of mankind the question presented is more important than any other to which political systems have given rise.

The worship of God, the relations between man and his Creator, constitute the noblest province of this freedom, as these are the highest duties man is called upon to perform. Many a powerful intellect has been brought to bear upon the problem of reconciling the greatest liberty of conscience with the salutary restraints of society; and no one

can deny that a palpable boundary, at all times clear and distinct, if not absolutely incompatible, with the condition of humanity, is a discovery in the science of political morals yet to be made. But Archbishop Hughes, with a courage which all may applaud, however his discretion may be doubted, or his success denied, marches up to this question, and with a single stroke of his controversial sword cuts this worse than Gordian knot, which has so long baffled the mental efforts of all his predecessors in this field of intellectual inquiry. He claims for human governments the right—how limited he does not tell us—to regulate the duties most closely connected with the religious opinions of their people; but while maintaining this thesis, he seems unwilling or unprepared to maintain its necessary corollary, that of a power over the human conscience, by drawing a distinction between that great moral faculty and the exercise of its dictates, thus leaving it a mere abstract sentiment. The learned prelate says:

"Connected with the case of the Medici, a new national policy has been broached in the Senate of the United States, by no less distinguished a Senator than General Cass. This policy, with which the gentlemen at Metropolitan Hall appeared to be very familiar, purports to be a vindication of the rights of conscience, to be secured to all American citizens in whatever countries they may choose to travel or sojourn. The ground on which this policy is advanced is, that in this country strangers of every nation are allowed to exercise their religion as their conscience may dictate, and therefore in all other countries Americans have a right to claim and exercise a similar privilege.

"It is hardly necessary for me to observe, that freedom of conscience, which is here contended for, is inviolable in its very nature and essence. To say that any man or any nation has either physical or moral power to destroy freedom of conscience, is to give utterance to a patent absurdity. Conscience, without freedom, is not conscience; but, for this very reason, the freedom of conscience is beyond the reach of man's power. God has provided in the human soul a fortress to which it can retreat, and from which it can hurl defiance against all invaders. I presume, therefore, that there is a confusion of ideas in the minds of those who, with General Cass, plead eloquently for that which requires no pleading, namely, freedom of conscience. That is universal, that is indestructible, that is inviolable. They must be understood to mean liberty of external action, according to conscience, which is quite a different thing. This external liberty of action according to conscience, in all countries, is regulated to a certain extent by the enactment of positive laws. In some countries the range is wider, in others more restricted; but it is limited in all, not even excepting the United States.

"The liberty of conscience which is recognized and applauded in Connecticut will not be tolerated (on certain subjects) in South Carolina or in Alabama. And the liberty which they there enjoy would not be allowed them under the toleration of the laws of New York. Is it expected, then, in the project of General Cass, that they, too, shall have the privilege of exercising liberty of conscience in their peregrinations among foreign States?"

This "national policy" is destined soon to be an established and a successful one, founded as it is upon the inalienable rights of man; and even if it were "new" in practice, as it is not, it is old in principle, and it comes to do its work at an age of the world when other considerations besides those of antiquity enter into the determination of grave questions affecting the welfare of mankind. It is but yesterday, as it were, that the "new" policy of "throwing off Governments destructive of the ends for which they are instituted," was announced in our Declaration of Independence; but young as it is, it already commands the assent of every liberal mind through the world, and ere long will become one of the great practical truths in all political systems.

The Archbishop assumes that this policy is



pressed here on the ground that, as foreigners are allowed the exercise of their religion in this country, therefore in all other countries Americans have the right to claim and exercise a similar privilege.

Mr. President, this is too narrow a foundation for this great claim of religious immunity. It rests on no example, but on the everlasting decree of the Creator. We do not undertake to say to any other Government that American citizens ought to enjoy the rights of religious worship within your jurisdiction because your subjects enjoy them in our country, but we say these are rights which belong to man everywhere; and we can ask you as a matter of comity to permit their enjoyment, with the more freedom, because every one, citizen or foreigner, in our country, is allowed to worship God in his own way.

The motive of the Archbishop in the promulgation of this moral theorem is not, at first, very obvious. Where it does not degenerate into a mere dispute about words, and assumes to be a psychological truth, it is at war with the common sentiment of mankind. To assert that the human conscience is free to fulfill its appropriate functions, whatever external force may be applied to its corporeal tenement, is to ask our assent to a proposition contradicted by universal experience. There is no profession however sacred, no position however elevated, no knowledge however extensive, no intellect however profound, which can give plausibility even to such an assumption—doctrine I will not call it—so utterly irreconcilable with the very instincts of our nature. For almost six thousand years the world has been groping in darkness, according to Archbishop Hughes, mistaking what is meant by the liberty of conscience, which, instead of ever being menaced by human authority, is entirely beyond its reach, and needs no defense, because it is exposed to no danger. According to this self-protecting theory, a man at the stake, with the fires burning around him, enjoys full liberty of conscience, because this resolves itself into the possession of the power of thinking, which is indestructible while life endures. That inward judge which decides between right and wrong is equally undisturbed by the presence of physical torture, and by the advent of impending death.

What degree of force—of physical trial, rather—will obscure the moral judgment, is, perhaps, a question of bodily endurance as much as of mental fortitude. Archbishop Hughes, in his highly figurative language, has provided a "fortress to which the conscience can retreat, and from which it can hurl defiance against all invaders." This metaphor will hardly stand the test of critical scrutiny, and is out of place in a grave moral investigation. To carry out the figure, the fortress may be captured by hopes and by fears, by promises and by dangers, and the judgment-seat usurped by passion and by prejudice. Occasionally, indeed, there have been wonderful examples of fortitude, of the conquest of the intellectual and moral feelings over physical sufferings, and when the faith and perseverance of the martyrs have overcome the terrible efforts of the tortures, or have put the seal of death upon the principles and professions of life. But these are rare instances of success in the battle of truth; and the moral philosopher, as well as the Christian com-

mentator, who seeks in such extreme cases the general rule of human action, will find his speculations little suited to the world we inhabit. Both reason and faith reprove such assumptions, and no man is morally free when in the face of tortures and punishments, felt or impending. It requires no discussion to satisfy the inquirer after truth that intense suffering may so affect the moral faculties as to blunt their perception, and totally to derange their proper functions. To tell a man he enjoys full moral freedom while coerced by external force, is to mock at the first principles of intellectual action.

But to pass from these speculations to practical inquiry: I desire to ask Archbishop Hughes what object he had in view in this effort to show that the human conscience is always free, whatever may be the external circumstances with which it may be surrounded, and that it is therefore absurd to fear its thralldom or to endeavor to guard against it? There is but one assignable reason for the assumption of this postulate, both physical and ethical in its character, and that is, an unwillingness to claim for any Government the naked right to interfere with, and to restrain or destroy the freedom of conscience. I do not believe that Archbishop Hughes would advocate such a doctrine, so understanding it; and certainly to do so would be a bold experiment upon the feelings of this country, which would be sure to be frowned down by public indignation. The difficulty of the position in which the Archbishop was placed resulted, on the one hand, from the opinion entertained by him that human law-makers have the right to legislate upon questions of religious worship, and on the other from a conviction that freedom of conscience is not within the pale of human authority; and the dilemma caused by these conflicting principles is to be avoided by reducing freedom of conscience to a mere operation of the mind, leaving it in its fortress, but leaving also to the tender mercies of the municipal magistrate the power to control and direct its dictates by all the terrible punishments which persecution has devised and faith endured. The grasp is upon the shadow, while the substance escapes. And the universal sentiment, that he alone is free who is free from violence, is rebuked as a *patent absurdity*, originating in a *confusion of ideas*, which the Archbishop kindly undertakes to make clear.

But, after all, the learned writer will find that it required no new Galileo to explore the human intellect, in order to discover and announce that the mind of man is beyond the direct jurisdiction of earthly laws. It is to measure the knowledge of the world by a low standard indeed to suppose that this obvious truth had so long escaped its penetration. In fact, it was as well known on the day of the exodus from Eden as it now is, even with the benefit of the distinguished prelate's labors.

But at best, according to the Archbishop's own showing, this branch of the inquiry degenerates into a verbal disquisition. The world chooses to call the freedom of external action the freedom of conscience, which he considers little better than an absurdity. Be it so; but this leaves the question just where it found it. A change of nomenclature does not change the object, which is to protect the conscience of man from human legis-



lation, by denying to it jurisdiction over those duties which conscience dictates. And this is the very proposition to which Archbishop Hughes finally comes, and fights against most manfully.

He precedes his statement, however, with the declaration, that to assert the existence of any power capable of destroying freedom of conscience is a *patent absurdity*, because "conscience without freedom is not conscience, but for this very reason the freedom of conscience is beyond man's power." Its freedom is beyond the reach of man, not because the faculty is invisible and intangible, but because it is indestructible and unassailable. As I would not misrepresent, and do not understand this process of reasoning, I must leave it to some other commentator.

The rights of conscience, the liberty of conscience, the freedom of conscience, are, in fact, but synonyms, all expressing the same general sentiment, that every man has the right to follow the dictates of that moral guide, so far as he is not prohibited by law, either Divine or human, and that it is the duty of every Government to abstain from all interference with this right, unless in cases fairly involving the peace and good order of society. The enjoyment of this freedom, in this sense, has been one of the great objects of wise men in all ages, and is especially so in this, wherever the first notions of liberty have penetrated. But it will be remarked, that this use of the term freedom is rather a *jus et norma loquendi* than a strict application of it in its true meaning. Freedom cannot be predicated of a faculty of the mind or body. It belongs to the sentient being. Freedom of speech is the freedom of a man to speak, not the mere command of the vocal organs. Freedom of action, to act. Freedom of conscience, to obey and be governed by the dictates of that great monitor. A man is a free agent, if all his powers and faculties are unrestricted; otherwise he is not free; always excepting, however, proper legal restraints from the class of injurious restrictions.

This somewhat metaphorical application of these terms cannot be made the foundation of a great moral deduction. But Archbishop Hughes has made them so, and maintains that freedom is so essential an attribute of conscience that without it the faculty itself would cease to exist, but that being indestructible, its indestructibility is a proof of its freedom. It is obvious that he is here referring to the free agency of the faculty, and not of the sentient being of whose intellectual powers it forms part; for he will not deny, no one will deny, that the individual himself may be deprived of almost every attribute of free agency.

The Archbishop kindly accounts for, and charitably excuses, my erroneous views on this subject, by the "confusion of ideas" resulting from ignorance of his great moral discovery of the difference between freedom of conscience and freedom of action, in obedience to its dictates. I can accept neither the charge nor the excuse. Though, indeed, my participation in this assumed logical heresy is of no consequence, nor would my conviction of it furnish the least ground, even of self-complacency, for beyond me is the opinion, I may say, of the world, that this priceless freedom is the freedom of action, as well as of opinion, and in conformity with it the sentiment itself is embodied in our constitutions and State papers, and is embalmed in the hearts of the American

people, and it is to be found, as a self-evident truth, even in the school books which form the minds of our youth. One of the purest of our patriots, one of the wisest and most accomplished of our statesmen, the virtuous Madison, has left his testimony upon record in opposition to this new assumption, in his inaugural address in 1809, in which he enumerates among our fundamental principles the duty of avoiding "the slightest interference with the rights of conscience," not the abstract right of thinking, but the practical right of deciding upon moral convictions, and of acting accordingly. And who that knew James Madison will dare to talk of the confusion of his ideas?

To multiply specific examples of the use and true meaning of this phrase would be a profitless and uncalled-for task, and I shall not undertake it. I shall content myself with four other authorities, all of which have peculiar claims to the consideration of Archbishop Hughes. One is the celebrated jurist Vattel, who, while maintaining, agreeably to the fashion of his age, the right of the sovereign to establish a State religion, and to make that the only one openly professed, earnestly reprobates all attempts to compel men to conform to it by municipal laws, and finally remarks:

"It must, then, be concluded that liberty of conscience is a natural and inviolable right. It is a disgrace to human nature that a truth of this kind should stand in need of proof."

What is this liberty of conscience, thus inviolable, and the denial of which is so sternly rebuked? Not Archbishop Hughes's power of thinking—for no man in his senses ever denied that; but it is "freedom from compulsion"—these are the words of the author—without which this moral agent, *inviolable* as it should be, is *violated*, "to the disgrace of human nature."

I have accidentally fallen upon two other examples, which place the highest civil authorities, members of the Catholic church, and acting for it, in signal opposition to this pretension of Archbishop Hughes. They both arose out of the great schism, which ended in the final separation between the Catholics and the Protestants. The long and bitter contest was brought to a close in Germany in 1532, by the treaty of Nuremberg, ratified by the Diet of Ratisbon, by which the Emperor Charles V. (Universal History, vol. 26, p. 302) granted "liberty of conscience" to the Protestants until the meeting of a general council. In like manner a similar arrangement was made in France in 1561, when the States of the kingdom being assembled for that purpose, an edict was passed, which gave "liberty of conscience to the Huguenots till the points in dispute should be settled by a general council."—(See Universal History, vol. 24, p. 248.)

Three centuries after these solemn proceedings by the Catholic Emperor, an Emperor who abdicated his throne to die in the bosom of his church, and by the Catholic princes and statesmen of Germany, and also by the Catholic Government and statesmen of France, it is discovered that these acts of justice and conciliation were "patent absurdities," and that these high authorities were afflicted with "a confusion of ideas" as manifest as it was lamentable. That the grants granted nothing, for that "liberty of conscience" is the power of thinking, which can neither be given nor taken away by prince nor people. One other reference,



and I quit this branch of the subject; but that will be to Archbishop Hughes himself. In the very letter, so much of which is devoted to the examination and condemnation of our proceedings, he again and again repudiates his own principle by confounding liberty of conscience with freedom from acts of external violence. He speaks of "other violations of liberty of conscience" in this country, which had resulted from deeds of lawless force, though he had previously pronounced it universal, indestructible, inviolable.

But his moral theorem becomes still more loose, when, not content with making freedom from personal outrage an essential attribute of freedom of conscience, he carries this exemption to property, and considers its destruction a violation of this great natural right. In a supposititious dialogue, which he introduces between the Grand Duke of Tuscany and the Secretary of State, Mr. Everett, whose name he gives us, the Tuscan ruler is made to gain an advantage over our distinguished countryman, which he would have lost by all odds in a personal interview. The object of this dialogue is to show, by asking certain questions about "liberty of conscience" in this country, that it has been violated here by the destruction of a convent in Charleston, by driving out the female inmates, by the burning of their furniture, and by the failure of the State to make compensation for these injuries. Each of these charges is made to constitute a separate offense, infringing equally the moral faculty. And the Archbishop seems perfectly clear in the conviction, that these are such violations of the rights of conscience, that the argument *ad rempublicam* would silence at once our demand and our complaint. And, again, he says, that "other violations of liberty of conscience in different parts of the country are by no means rare in our history. They occurred in Philadelphia when churches and convents were burned to ashes by the intolerance of the mob." Now, sir, what becomes of this great discovery, the distinction sought to be established by Archbishop Hughes between "liberty of conscience" and "liberty of external action," when he himself breaks down all distinction, and makes the peaceful enjoyment of property an essential portion of liberty of conscience? What security does the "fortress" not made with hands afford, when the destruction of a building, or the burning of furniture, or the failure to make compensation for either, becomes a violation of the liberty of conscience, according to this new system of moral accountability.

But the charge of being afflicted with the grave intellectual malady of "a confusion of ideas" is left of its sting, and becomes indeed rather gratifying than otherwise, when I find the association in which it places me. The Senate of the United States, the American Executive, and various foreign Powers, have been equally afflicted with this mental derangement. We have fourteen treaties with other nations—there may be more, but that number I am sure of, and I shall advert to them again, for another purpose, before closing my remarks—in which "the freedom of conscience," "the liberty of conscience," "the security of conscience"—for these terms are indiscriminately employed, and obviously with the same meaning—is made the subject of negotiation and protection. If these rights cannot be violated, conventional pro-

tection for them is but a solemn farce, in which ignorance and imbecility may contend for pre-eminence.

The principle advanced by Archbishop Hughes, and the illustrations in support of it, are sadly inconsistent with each other. But, adhering to the former and rejecting the latter, he maintains that freedom of conscience is beyond the reach of human legislation, but the external action which the world considers, and justly, as the true freedom of conscience, may be the rightful object of control; and while the former is shut up in his fortress, the latter may be dealt with at the pleasure of the ruler. I cannot ascertain, from a careful perusal of Archbishop Hughes's remarks, what practical limitation, if any, there is to the exercise of this power; for he says, "this external liberty of action in all countries is regulated, to a certain extent, by the enactment of positive laws. In some countries the range is wider, in others more restricted, but it is limited in all, not excepting the United States."

The human conscience embraces in its operations a vast field of duty, the extent of which it is not necessary, for any purpose I have in view, to examine. I am dealing with a practical question—with the freedom of religious worship—one of the branches of the rights of conscience. Whatever illustrations the subject may receive from other considerations, these are but accessory, and I design to restrict my investigation to the freedom of religious worship—to the relations, as I have said, between a man and his Maker. The object of our proposed action is to procure for American citizens abroad immunity from local laws, so far as these interfere with the liberty of worshipping God. With respect to other conscientious scruples in the affairs of life, by which men may be placed in opposition to municipal laws, as the subject is not now in my way, I shall not turn aside to seek it. Prudent Governments should avoid, as far as may be, the adoption of measures revolting to the moral sense of their people.

But, sir, I say, as I said on a former occasion, I am no believer in what has been falsely called the *higher law*; for it should be called the lower law, or rather no law at all, as the principle involved in it would be destructive of all law, leaving every man free from the obligation of legal obedience who should declare he had conscientious scruples respecting submission. And I say, also, that if a man is required by law to do what he thinks he ought not to do, the only course by which he can reconcile his faith and his duty, is to sit still and suffer as a martyr, instead of resisting as a criminal; unless, indeed, the oppressive acts result in revolution. That was the doctrine and the practice of the Apostles. And he who believes that any other is consistent with the maintenance of social order for a single day, in the face of the hallucinations of the human intellect, or of the pretexts of human hypocrisy, has yet to learn the very first rudiments of the nature of man. But the inquiry I am making is into the rights of rulers, not into the duty of the ruled. And this brings me to the true point, whether Governments may rightfully control, at their will, the religious opinions of their citizens; and I mean, by controlling them, the just authority to punish all who disobey their mandates.

Now, sir, I am not going to argue this topic at



this day and in this country. I should consider my own time and yours badly employed in such an effort. If there is one principle in the whole range of political systems in which the people of this country are more united than in any other, it is this very principle of the entire freedom of religious worship. It belongs, as they feel and know, to the kingdom of God, and not to the kingdom of man, and I shall therefore confine myself to the consideration of the views given by Archbishop Hughes upon this momentous topic. In the paragraph before quoted they are distinctly stated, and strange, indeed, are they to be thus presented to the American community.

There are two points involved in this branch of the subject, which, for the sake of precision, it is well to separate. The first is the right of Governments to make conformity with a particular profession of religion a condition precedent to any share in their administration, either as electors or as office holders. This principle is, in my opinion, equally impolitic and unjust, but it does not enter into the present inquiry, which relates to a higher subject, the freedom of conscience, its immunity from human restraints, and not to the freedom of mere political privileges. This discussion turns upon the claim of Governments to control the religious freedom of their people by prohibiting the exercise of any religion but the dominant one established by the State, or by requiring all within their jurisdiction to conform to it. I am aware of the apologies for this monstrous usurpation, which are to be found in some of the European elementary writers. They do not weigh one feather with me, not enough to justify even a consideration of their views—arguments there are none. Their day has gone by, and contempt is the only feeling excited in the breast of an American by such sentiments as the following, the type of their class, advanced with all due gravity by a celebrated, perhaps the most celebrated writer upon natural law:

"There is nothing on earth more august and sacred than a sovereign; and why should God, who calls him by his providence to watch over the safety and happiness of a whole nation, deprive him of the direction of the most powerful spring (religion) that actuates mankind?"

And, therefore, he has "a right to examine its doctrines, and to point out what is to be taught, and what is to be suppressed in silence." And this experiment upon the credulity of mankind is made by a writer who was a cotemporary of Elizabeth, and of Catharine the II. of Russia; of Louis XV. of France, and of George II. of England; four persons utterly debased in character and morals, living in open contempt of the laws of God, and of the opinion of the world. This monarchical monomania plays fantastic tricks with the human judgment. I do not refer to the rational considerations which may justify the establishment of that form of government in many countries; but I refer to that sublimation of the imagination, by which the wearing of a crown instead of a hat deifies the possessor, be he King Log or King Stork, giving him a just right to control the conscience of his subjects even, as often happens, when he has none of his own.

"My opinion," says another eminent commentator upon the law of nature and of nations, "is, that the Supreme authority, in matters of religion, ought necessarily to belong to the sovereign." If

this is not intended as a satire upon religious intolerance, it is itself a satire upon human nature. I should as soon think, at this day, of seriously undertaking to refute the dogma of the divine right to reign, or to establish the just authority of a people to change their government, as to show that the regulation of religious worship is not within the legitimate sphere of political systems; and I should just as soon think of undertaking to prove that the earth is not an extended plain, round which the heavenly orbs revolve, as to enter argumentatively into either of the other topics. This freedom of religious worship is an instinctive persuasion, a moral axiom, indeed, for the American understanding, which no discussion can shake, and no discussion can strengthen. He who does not feel its truth possesses a mental organization so different from mine, that the sooner we separate in the field of argumentation, where there is no common ground we can occupy, the better.

It is not every vagary of the imagination, nor every ebullition of feeling, nor every impulse of the passions, however honest the motive may be, which can lay claim to the rights of conscience. That great moral faculty is an improving one, and should be improved and instructed by all the means within our reach; and he who neglects that duty will have much to answer for. It is no excuse, by the laws of God or man, that he who, in a state of sanity, commits a crime, believes he was called upon to do it. Certainly, were such a doctrine established, there would be little security for society, for immunity from punishment would be sure to lead to the relaxation of moral perception, and to the accommodation of the conscience to any temptations which might present themselves. Every man is responsible for the use of this endowment, as he is responsible for every other gift which God has bestowed upon him. It is not enough for him to say, in self-exculpation, "I thought I was right," unless he uses the means of proper culture, according to the opportunity which his condition gives him. The human legislator has the right to separate presumptuous or unfounded pretensions, at war with the just constitution of society, from conscientious dictates, properly regulated, and operating within their just sphere. Undoubtedly here is room for abuse and oppression as there must be, more or less, in all human institutions; but it is inseparable, in the very nature of things, from the position of the parties, governors, and governed. And in this very circumstance is found one of the great blessings of free institutions, which neither sacrifice the protection of the community nor of individuals, but endeavor to preserve the just rights of both; while the constant efforts of irresponsible power, and of governments not depending on the will of the people, are to circumscribe personal freedom, and to rule over the mind as well as the body. Let not, therefore, Archbishop Hughes deduce the right to claim exemption from any and all laws from the position that there are some laws which carry with them no moral obligation, and which the human law-maker has no right to pass. The attempt is equally illogical and unreasonable. The true object of human governments is to protect man in a state of society; and in the execution of the duty thus devolved upon them there must necessarily be various modifications of systems, operating in



different parts of the globe, and much latitude of discretion in their administration. Still, in an inquiry into the just rights of these governments, not into their practical working, it is vain to tell us what they have assumed to do; for they have assumed to do much, and have done much, for which there was neither authority nor justification.

The reference, therefore, to our country, to Connecticut and South Carolina, even if the facts bore upon the discussion, would be merely to furnish examples of bad legislation, leaving untouched the question of right. But I deny that religious worship is the subject of American legislation. There is no part of our country, not a solitary nook, from these marble Halls, where the representatives of the American States and people assemble to do the will of their sovereign, to the remotest log cabin, upon the very verge of civilization, where a man may not freely and lawfully worship God, unrestrained by any law, local or Federal. I make this assertion without the fear of contradiction. In Connecticut, in South Carolina, in Oregon, and everywhere else, any man may perform his religious services to his Creator without the slightest fear of interruption or punishment. But there are other considerations connected with this subject, and necessary to its full development, in order to prevent a confusion of ideas, which I am surprised to find have escaped the penetration of so practiced a logician and sagacious an observer as Archbishop Hughes. It is obvious, on the slightest reflection, that in the practical operations of governments, cases may arise in which it may be difficult to ascertain distinctly where just authority ends and usurpation begins. Like many other questions in life, the extremes may be obvious, though the intermediate shades of difference may not be well defined. It is perfectly clear that no Legislature can rightfully touch a man because he reads his Bible, or falls on his knees to pray, or performs any other act of worship compatible with the peace and healthful condition of society; and equally clear is it that he who, pretending to worship God, commits acts inconsistent with social order, by whatever vagary impelled, whether the result of a distempered intellect, or of hypocritical cunning, seeking profit or distinction from human credulity, can claim no exemption from the just consequences of his own acts.

The true doctrine is laid down with equal force and precision by Puffendorf. That eminent commentator says:

"In a word, however blinded men may be, or under whatever illusions they may labor, yet while these errors lead them to no action contrary to the good of society in general, or the safety of that Government under which they live, they ought in no way to be disturbed on this account."

"Nor is there any other lawful way to recover them, and prevent the effects of their error, than that of calm and solid instruction."

"It is the highest injustice to deprive them of their goods and privileges, either civil or natural; because every man has a natural and inalienable right to enjoy full liberty of acting according to his conscience, especially in matters that relate to his eternal welfare."

One of the most extraordinary chapters in the history of man is filled with examples of strange aberrations, each enjoying its hour of success, and then giving way to some other passing freak, as unreasonable and as short-lived as its predecessors. Sects have existed, exist yet, I believe, which deny the authority of all governments not administered by themselves. Others have

appeared like the Anabaptists of Germany, some three centuries since, who maintained that, "among Christians who have the precepts of the Gospel to direct, and the spirit of God to guide them, the office of magistrate is unnecessary, and an encroachment on spiritual liberty; that a community of goods should be established, and that a man may marry as many wives as he chooses." And these tenets were not only avowed and proclaimed, but practically enforced by armies and sieges and battles, till fanaticism gave way, and governments resumed their usual operations. Even our own country at this very moment exhibits a humiliating spectacle, in an association of men, degrading the name of Christians by appropriating it to themselves, and openly professing and practicing doctrines irreconcilable with an orderly condition of society, and which hold out the reward of lust to strengthen the conviction and conversion of its followers. Examples of this mental obliquity—monomania very often, for it cannot be doubted that many who embrace such tenets are honest in their allegiance to them—might be multiplied indefinitely, were the task a necessary or a profitable one. But it is neither, and these illustrations of the general principle are enough for my purpose. Now in all such cases, the civil magistrate may rightfully interfere and provide punishments, not for acts of religious worship, but for crimes, before which the peace of society would disappear. But as I have said, between the extreme boundaries there is a debatable land, where doubts may arise, and where just allowance should be made for the imperfection of the human judgment.

But this difficulty, in the practical application of the general powers of government, which Archbishop Hughes seems to mistake for the principle itself, can have no effect upon our present inquiry, for that relates only to proceedings beyond all question out of the true domain of human government. The Archbishop, in the further prosecution of his object, remarks:

"Again, the assumption of General Cass is a fallacy. He assumes that the freedom of religion in this country is a boon conceded by Protestant liberality to all the inhabitants of the land. This is not so. It is a privilege which was won by the good swords of Catholics and Protestants in the battles for national independence. It is a common right, therefore, and is not to be regarded as a concession from one to the other. This arrangement, in regard to liberty of conscience, suited the policy of the country, and was absolutely indispensable after the revolutionary war. Does General Cass mean to say that, because it suited us, all other nations must adopt it whether it suits them or not? As well might England say that because it suited her finances to adopt free trade, she will insist upon it that all other nations shall do the same. General Cass knows, as well as any man living, that until this country becomes vastly stronger, and foreign States much weaker than they are, all pleadings on this subject will be treated as drivelling by foreign States. Or if you have a mind to arrange the constitutions and laws of European States by the power of armies and navies, that, indeed, is another matter. But the United States will expose themselves to ridicule if they drag in such a question into their diplomatic intercourse with foreign Governments."

I must confess, sir, I am utterly at a loss to conceive how the distinguished writer could so greatly have mistaken my views as he has here done. The source of his error is inexplicable to me. All I know, is, that the error is an obvious one. He says I assume that "the freedom of religion in this country was a boon conceded by Protestant liberality to all the inhabitants of the land." I



said nothing like this, I assumed nothing like it. I earnestly repudiate the whole position, and every syllable of it. Neither the word Protestant nor Catholic is to be found in the whole course of my remarks, nor any other word discriminating between them. So far from considering the freedom of religion as a boon acquired by one sect and granted to others, I considered it a natural, inalienable right, existing independent of Governments, and not within the legitimate sphere of their action. That was, and is, my doctrine, and I believe it is the doctrine of the American people, and I challenge the Archbishop to find in my observations a single remark justifying this charge. I have just reperused them, and can, therefore, speak with as much certainty as earnestness. The Archbishop continues:

"This argument in regard to liberty of conscience suited the policy of the country, and was absolutely indispensable after the revolutionary war."

What is here termed an *arrangement* is, in fact, the recognition of the great claim of religious freedom, and the writer is correct in saying that it suited the policy of the country. It did, and it suited the feelings and the principles of the American people, not only then, but I hope it will suit them in all time to come. It was not a mere temporary *arrangement*. It is degraded by such an epithet. It was the ever-enduring establishment of a great principle, destined to produce the most salutary results through the world. I do not assert that the whole country at once gave in their adhesion to perfect religious toleration. They were prepared for it by their antecedents, and by the profound investigation of the general principles of freedom, both civil and religious, which marked the course of the Revolution; and every step was in advance, till the glorious consummation, which leaves us nothing more to ask for in regard to this great branch of human rights. But he continues:

"Does General Cass mean to say that, because it suited us, all other nations must adopt it, whether it suits them or not? As well might England say that because it suited her finances to adopt free trade, that all other nations must do the same."

I must confess my astonishment that the learned and able prelate thus deals with this great principle of religious freedom, reducing it to the level of those questions of mere expediency which may well be decided one way to-day and another to-morrow, as the circumstances that control them change from time to time. I do not mean to say that because the *arrangement* suited us, therefore it suits and should be adopted by all other nations. I mean to say, it suits all nations and all time as a law of right, implanted by the Divine Lawgiver in the human breast; and whoever violates it, be the guilty party prince or people or priest, will in vain seek to avoid the just consequence of presumptuous intolerance.

The Archbishop then proceeds to say:

"It is a recognized principle in this country, that every sovereign and independent nation has the right to adopt its own Constitution and laws. The Constitution and laws of a country are but the aggregate of general principles, applicable to the peculiar situation, protection, and welfare of the citizens or subjects of which it is composed. They may be regarded as the public and permanent expression of the aggregate conscience of that State."

It is certainly not to be controverted, that the principle here asserted, that independent States

have a right to adopt their own Constitution and laws, is fully recognized in this country, and, indeed, I suppose, at least theoretically, everywhere else, unless, indeed, where the divine right to reign leaves no other right but that of obedience.

But I must again bring to the notice of the Archbishop that this investigation does not touch forms of government, nor their powers as political communities. It has a much higher aim; and that is, to ascertain their moral right to control the consciences of their people, by prescribing their mode of faith, and the manner in which they shall worship God. With respect to the "aggregate of general principles applicable to the peculiar situation, protection, and welfare of citizens;" though I must confess my ideas are much confused as to what this means, yet, from my glimmering of it, I have only to say, that such considerations are lighter than the small dust of the balance in a moral inquiry as important as this. Segregate or aggregate what principles you may, the great principle remains inviolable, rising superior to all other considerations, THAT MAN HAS A RIGHT TO WORSHIP GOD UNRESTRAINED BY HUMAN LAWS. There is no situation, protection, nor welfare, which can rightfully interfere with this duty; or, rather, there is no situation in which it is not the best protection, promoting the greatest welfare of mankind.

As to the "aggregate conscience" of a State, I neither comprehend distinctly its meaning nor its application to the question in controversy. The metaphorical expression, *public conscience*, may serve to illustrate or to enforce considerations affecting the conduct of nations, but it can have no proper place in a rigid inquiry into moral duties; for, in fact, it can have no existence. It is carrying figurative language to the very verge of mysticism to employ it thus loosely as an element in a search after truth. And this "aggregate conscience of a State" is made up, not of the consciences of those who obey its government, and ought to direct it, but of its own Constitution and laws, which form the expression of "the aggregate of the general principles applicable to the peculiar situation, protection, and welfare of its citizens," &c. That is, in other words, the administration of every Government expresses the *aggregate conscience* of the State it rules. Well, this is an easy, if not a satisfactory, way to dispose of this grave question of public morality. It comes to this: that the *aggregate conscience* of France is permanently expressed by its Constitution and laws, that is, at present, by the rule of Louis Napoleon; of Turkey, by the successor of the Prophet; of Russia, by the Czar; and so on to the end of the chapter of Governments, good and bad. I said I did not comprehend the application of this doctrine, were it even true, and I do not. But so able a controversialist as Archbishop Hughes did not advance it without design; and the only bearing I can discover which it was to have, is to offset this "aggregate conscience" against the consciences of individuals, this *moral faculty of Massachusetts, which has one form, and of Louisiana, which has another*, thus giving the right of final judgment and control in all cases to this abstract national faculty, and practically justifying the most revolting tyranny because the law is the expression of the public conscience, and the public conscience is the foundation of the law.

The Archbishop sees, in any representations



which may have been made by our Government to that of Tuscany respecting the Madiari case, not only a kind of national self-abasement, but a pregnant example, which might be hereafter converted to our injury. As I know nothing of any such representations, but, on the contrary, have the best reason to believe that none were made, I have only to say, that I should not have approved of any interference, as the rights of an American citizen were not in question. Yet my objection would have originated in other considerations, and not in any fear that, by an effort to check persecution and intolerance, we should lower our character in our own eyes, or in those of the world. Still less do I fear that the attempt to protect American citizens in the enjoyment of religious worship abroad will expose us to ridicule or contempt. If it does, I think we can bear the misfortune with due fortitude.

As to the national humiliation of requesting the Governments of the earth to permit the peaceable citizens of our own country, while residing in another, to worship God as freely as they worship him at home, I am not afraid it will injure us in the estimation of the world. On the contrary, I believe that this manifestation of solicitude for the religious freedom of Americans will be everywhere applauded as another proof of the devotion of free Governments to the rights and welfare of their people. Nor do I apprehend that what we now ask will furnish a cause or pretext for demands upon ourselves, which we could not grant without danger, nor refuse without inconsistency. No such case can happen. We are ready to receive and consider the applications of all other Governments to our own, in relation to the just rights of their citizens in our country. That is a legitimate subject for national representation, when made in a proper spirit; and it is one we should ever be willing to receive in a like spirit of conciliation. All beyond that has no relation to our present inquiry.

But we are told by the distinguished prelate:

"Until this country becomes vastly stronger, and foreign States much weaker than they are, all pleadings on this subject will be treated as driving by foreign States."

Let us look into this matter a little more closely, and test this positive assertion by principle and by history.

As to the right of friendly remonstrance upon such a subject, it cannot be called in question, looking either to the principle or to the practice of national intercourse. The tendency of modern civilization is to bring the powers of the earth into more direct and immediate contact, multiplying their points of intercommunication, and increasing their mutual interest in one another. There are perfect obligations, as they are called, arising out of this intercourse, the fulfillment of which may be peremptorily demanded, and, if neglected, may be justly enforced by war. But there are other demands involving matters of comity, of interest or of policy, which circumstances call out, and which may be refused without such serious consequences. Some of these constitute the foundation of commercial treaties, while others are confined to representations, and to the remedy which these may produce, without formal conventional arrangements. Nations remonstrate with one another against high tariffs when they are particularly injurious. We have done it many times,

especially in relation to tobacco, the duties upon which operate as an interdict against its introduction into some countries; yet the right to lay such imposts as it pleases is one which belongs to every Government, and is exercised by every one. But it is contended that we should violate national comity if we remonstrated against laws interdicting to American citizens the worship of God—not levying duties indeed upon the rights of conscience, but absolutely prohibiting their exercise. Away with such fastidious distinctions.

Many legal rights are surrendered by nations to each other, in order to meliorate the condition of their respective citizens, or to promote the ends of justice. The *Droit d'Aubaine*, that relic of barbarism by which a State claims the inheritance of property where the heir is a foreigner, has been abandoned in a number of the treaties we have formed with European Powers. Mutual obligations have also been incurred for the surrender of fugitives from justice, and we have made ourselves parties to this policy. Many other instances exist where the laws of a country have yielded to these reciprocal arrangements. Archbishop Hughes seems to suppose, that because the demand in such cases are not founded on perfect obligations, a nation would humiliate itself by proposing arrangements which might be rejected. Not so. Marteus, speaking upon this subject, touches the very point where he says:

"In treaties of commerce between Powers of different religions, care is taken to fix the rights to be enjoyed reciprocally by the subjects of the two parties with respect to their religion, burials," &c.

This distinguished jurist sees nothing humiliating in such an arrangement, and of course there can be nothing humiliating in the proposition. He speaks of the very course we propose as one sanctioned by the usage of nations. That it has been so for almost two hundred years—how much longer I have not sought to ascertain—is shown by the treaty of Utrecht of 1667, between England and Spain, which provided that the subjects of neither party should be molested or disturbed for their conscience, so long as they gave no public scandal or offense. It is obvious that the framers of this treaty were afflicted with a confusion of ideas, and could have been no believers in the Archbishop's theory of the inviolability of conscience; because if it could not be violated, it needed no protection. The protection here provided has relation to external action, or it has relation to nothing.

Upon this subject of the usage of nations I prefer the history of their diplomatic intercourse, and the authority of an eminent jurisconsult to that of the Archbishop. There are extreme theoretical rights connected with national jurisdiction which are opposed to the feelings of the world, and must give way to their expression. The right to put to death all persons thrown upon the coast of a country is, perhaps, yet claimed, and at no distant day was exercised, by some of the Powers of Eastern Asia. At one time it is said to have been the law of Russia. Though the legitimate consequence of the principle of local sovereignty, yet there is not a civilized nation on the face of the globe which would now submit to this legalized murder of its citizens. It would be frowned down by the indignation of the world; by its power, if need be. And so with respect to the



right to seize vessels and other property wrecked upon a coast, it is wearing out, pretty much worn out, leaving the pretension a monument of injustice and cruelty. A change is going on in the principles of national intercourse, gradual, if you please, but sure and irresistible.

The harsh relics of dark and barbarous ages are disappearing, and the influence of liberal governments is extending and expanding itself wherever there is injustice to remove or prejudices to encounter. The Grand Duke of Tuscany is safe for to-day, even if he stands between the American or the English sojourner and his God; but I would not insure his safety for to-morrow without a heavy premium. The code of public law has not yet quite reached the case, but it is rapidly spreading, and, for one, I hope it will soon be a recognized principle with the enlightened Governments of the world, that if duty and humanity fail to protect the right of their citizens to free religious worship abroad, that protection may be rendered by force. But the history of our conventional intercourse with foreign Powers furnishes the best refutation of the argument of Archbishop Hughes, as well as the best rebuke of this charge, that the assertion of this great principle is no better than national "driveling," and "that it will expose us to ridicule if we drag in such a question into our diplomatic intercourse with foreign Powers." As early as 1785, two years only after the acknowledgment of our independence, entire freedom of worship was consecrated in a treaty with Prussia in these memorable words.

"THE MOST PERFECT FREEDOM OF CONSCIENCE AND OF WORSHIP IS GRANTED TO THE CITIZENS OR SUBJECTS OF EITHER PARTY, WITHIN THE JURISDICTION OF THE OTHER, WITHOUT BEING LIABLE TO MOLESTATION IN THAT RESPECT, FOR ANY CAUSE OTHER THAN AN INSULT TO THE RELIGION OF OTHERS. MOREOVER, WHEN THE SUBJECTS OR CITIZENS OF THE ONE PARTY SHALL DIE WITHIN THE JURISDICTION OF THE OTHER, THEIR BODIES SHALL BE BURIED IN THE USUAL BURYING-GROUNDS, OR OTHER DECENT AND SUITABLE PLACES, AND SHALL BE PROTECTED FROM VIOLATION OR DISTURBANCE," &c.

There, sir, is driveling to some purpose. And who were the "drivelers" that exposed a young nation to ridicule, by "dragging such a question into our diplomatic intercourse with foreign Governments?" They were John Adams, and Benjamin Franklin, and Thomas Jefferson. They signed this treaty. They stood prominently forward in "driveling" their country into independence, and no less prominently forward in "driveling" her into the assertion and maintenance of this great and glorious principle of entire religious freedom. We do not want a letter changed in this noble tribute to the rights of conscience. Time cannot improve it, and I hope it will be the model kept in view till the great end is consummated. So far is the reproach cast upon such efforts, that they expose us to ridicule, from being justified by facts, that there are, in our diplomatic archives, some fourteen or fifteen treaties, if not more, existing or expired, with foreign Powers, and several of these Powers Catholic, recognizing this principle of intervention, and providing for the enjoyment of liberty of conscience and of religious worship—some with and some without limitation, but all bearing testimony to its value, by making it the subject of conventional arrangement—Archbishop Hughes to the contrary notwithstanding.

But some of these conventions are too restricted,

perhaps equivocal, and leave room for religious oppression, and thus other and more liberal provisions become necessary, even in several countries which have taken the first step in this career of toleration towards foreigners. And there are other countries which have not yet entered into it, and some within whose jurisdiction the accidents of life carry large numbers of our fellow-citizens, and where intolerance sits, like an incubus, upon the moral energies, forbidding, with jealous exclusion, the exercise of every form of religion but the dominant one. And there our people must be protected in the enjoyment of this right; ay, and it will be done, too. It is only a question of time, and, by a firm course of action, we can make that time a short one. We must prove to these States, whether Catholic or Protestant, thus lagging in the rear of true religion, that we are in earnest; and it is for that reason that this national demonstration, shown by the petitions we receive, and fortified by a decided expression of the views of the American Congress, is important, and cannot fail to be useful. As to the power of the Executive to make representations for this object, there can be no doubt, and there is as little that he is well disposed to exercise it. But he wants the moral support of the country to aid his efforts; and that ought to be given to him. The effect of these demonstrations of the views of the representative body of the country, in questions of great national importance, are well stated in the London Times of April 5, 1845, as they are well understood by the able chairman of the Committee on Foreign Relations in the House of Representatives, who recently remarked that it was the duty of Congress to support the President in grave conjunctures of our foreign affairs. The Times says:

"The American packet, the *Caledonia*, which has been detained until this morning, will carry out the distinct and emphatic declaration of the British Government on the subject of the Oregon Territory, which was received last night with the strong and unanimous ratification of both Houses of Parliament.

"When the interest and dignity of the country, and the preservation of the dominions of the crown are at stake, there is no equivocation in the language of the Government to foreign Powers, and no semblance of weakness or hesitation in any political party."

Add to the above the rights of American citizens and then let us go and do likewise.

How he who acknowledges the duty of the Government to extend protection to our expatriated citizens, sent by the accidents of life to foreign countries, in questions relating to person and property, can deny the right to interfere by remonstrance even in cases of religious oppression, as I do not understand, I shall not attempt to explain.

Modern diplomacy is filled with instances of interposition upon almost every subject, freely made and kindly received. Strange, indeed, but so it is, that many among us, in public and in private life, seem to have a nervous repugnance to such action on the part of the Government, conjuring up a thousand *chimeras* *divæ* against its exercise. To seek to protect great principles is by some kind of political alchemy transmuted into an *entangling alliance* and an *artificial tie*, against which we were warned by the patriarchs of our political faith. It is by no such spirit as this we can obtain and retain that position in the world, and that relation to the principles and progress of human freedom, that every true-hearted American desires his coun-



try to occupy, and knows she can occupy, if the counsels of timidity do not take the place of firm and decisive action. That would be miserable statesmanship indeed which, rejecting the glorious mission apparently assigned to us, (I like the word, whatever taunts its use has provoked,) should seek to shut us up in a kind of Chinese isolation, afraid to take a single step lest we should encounter old and illiberal prejudices, which, thank God, however, are fast wearing away, and give offense to some Government which is at least five centuries behind its time.

It would be hard to satisfy me, that firm remonstrances, in a kind spirit, on this subject of religious freedom, will be permanently unsuccessful. I do not believe a word of this. Since I have been upon the theater of action, the progress of human opinion has wrought more changes in the physical and moral condition of society than were witnessed for ages preceding that era. No man can set bounds to this mighty agent, and I bless God that, though I am full of years, I am full of hope, looking forward with confidence to other, and yet mightier triumphs, more glorious than those of the battle-field, and which will go far to reclaim the human family from political and religious thralldom, from intellectual ignorance, and from physical want. Governments cannot now do deeds of darkness darkly. Their inmost recesses are penetrated by the light of public information, and their doings and their designs are laid open to the gaze of the world. There are no veiled prophets now to assume and hold power by mysterious pretensions, nor prisoners with iron masks to wear out their lives in confinement, and whose names and offenses are equally unknown. There is, indeed, no want of tyranny, but it does its work openly. No nation can isolate itself from the common observation of mankind. The world is watching, judging, and approving, or condemning, as the course of public measures is just or unjust. No people can withdraw themselves from this great scrutiny. No system of despotism can close its boundaries to the access of this mighty engine; and, sooner or later, it will finish, and well finish, the work it is now doing.

And I, for one, rejoice in the exercise of this general power of observation and animadversion. I fear no harm from it, while the good it brings is palpable, increasing, and destined to extend and expand with the progress of knowledge. It is all idle to talk of the abstract right of Governments to rule as they please within their own dominions, and to "adopt their own constitution and laws." It is a truism indeed, which no one questions, abused as the power too often is. But beyond this right there is another equally unquestionable, and that is the right of the great community of the world to set in judgment on the conduct of its various members, acting by the means of public opinion and a free press, and the right also of the Governments of the earth to remonstrate with one another in a proper spirit, where their own people are concerned, even where the subject falls within the pale of municipal rather than of national law. I have no such apprehension as Archbishop Hughes manifests, lest representations like the one proposed should produce retorts the more unacceptable, because unanswerable. For my part, I know no awkward questions which the Grand Duke of Tuscany, or any other potentate, in the interests of his own

subjects residing here, could ask the Executive "about the liberty of conscience in this country," which he would be "puzzled to answer," and "whether liberty of conscience is recognized as unlimited in the United States," &c. But to place, as Archbishop Hughes does, the penal laws against religious worship, and the prosecutions to which they give rise, in the same category as acts resulting from popular ebullition prohibited by the law, or that kind of "social and political intolerance" which makes itself felt by exclusive intercourse, is to run a parallel between objects as different in their principles as in their consequences. "Is there any practical difference?" these are the words which are put into the mouth of the Tuscan ruler in the dialogue, to which I have alluded, with our Government, for the purpose of crimination or of recrimination, I do not exactly comprehend which, perhaps both:

"Is there any practical difference between the social intolerance which prevails in your country, where there are so many religions, and the legal intolerance of our dominions, where there is but one?"

The Archbishop, like a dexterous dialectician, by the insertion of one little word "practical," changes the whole bearing of the discussion. This turns upon principle, upon the relative rights of Governments, and of the communities subjected to them, and not at all upon social usages, whether the result of propriety or of prejudice. He who confines his business or his intercourse to members of his own faith, "who drives away poor servants because they will not, against their conscience, join the domestic religion 'of State,' (Query.—What mean these words 'domestic religion of State?') which their fancy has made exclusive," or "who disinherits his own offspring for no other cause except that of practicing their own religion," deserves the contempt and reprobation of every right-minded man. It is an abuse of terms to call the motives that govern him religious convictions. They are blind, and bitter, and wicked prejudices, nowhere taught in the Gospel of Jesus. But these relations belong to that class of social duties beyond the reach of positive laws, and must be left to their own consequences. Any attempt to control them would lead to endless and inextricable difficulties.

For myself, sir, I have not the least design to undertake the task of pointing out the errors into which Archbishop Hughes has fallen in relation to this topic. I desire, however, to say I do not doubt but that acts of social intolerance like those he alludes to, and justly censures, may have occurred in this country; but I trust and believe they are rare, and I know they are not chargeable to any particular denomination, but may happen as well to members of the Catholic faith as to those of the various sects of Protestants. And I know still more, that they are less likely to happen in this country than in any other under Heaven, from the very nature of our social condition, and of our political organization, which are hostile to sectarian prejudices, and insure their being visited by public condemnation.

But to the question to be put by Grand Ducal lips, *whether there is any practical difference between our social intolerance and the legal intolerance of other countries*, I answer, yes, all the difference in the world, as well theoretical as practical. If the law is intolerant, society becomes necessarily



intolerant also, though the converse of the proposition would be a logical heresy. The Government that reduces religion to its will makes the worship of God the subject of legal regulation, whatever may be the conviction of those under its authority. The Government which assumes that religion is a matter between man and his Creator, and avoids all interference with it, leaves the human conscience free, and the noblest attribute of our nature to do its own work. The arm of secular power is not interposed to direct, to restrain, and to punish, as it is where rulers presumptuously undertake to substitute their own will for the will of God. Every man in a country of religious freedom has the same rights and immunities as every other, and that is all that can justly be demanded of civil Governments. But the proscription of social intolerance is a game at which all may play. Unreasonable prejudices may be encountered by prejudices equally unreasonable. And one sect can meet another in this unworthy contest; but it is a contest which can nowhere endure for any length of time, nor be felt to any considerable extent, where the Government preserves a neutral position, and protects each from the actual interference of all. If a Protestant will not have a Catholic servant, nor a Catholic a Protestant one, nor a servant a master whose faith differs from his own, each can suit himself by seeking such as may please him in the members of his own denomination, and this is *practically* far better than that one of these sects should be the dominant one, judging not only for itself, but for all others, and enjoying its freedom at their expense. Proscribing all, not only by social intolerance, but by legal power and by terrible punishments. So much for this question, so emphatically put.

Archbishop Hughes, in the appeal he makes from our professions to our practice, in continuation of the Tuscan rebuke to be administered to our Government, remarks that "other violations of liberty of conscience, in different parts of the country, are by no means rare in our history;" and he proceeds, in proof of this assertion, to refer to the burning of religious buildings in Philadelphia, which I have already introduced in connection with another branch of this inquiry, as he had just before referred to the lamentable destruction of a convent in Charlestown, in Massachusetts. Mr. President, these instances of lawless violence have no legitimate place in this investigation. They are introduced by way of offset against the Madiari persecution, and to warn us that we are not so guiltless as to find ourselves justified in throwing the first stone. It is contended that the Madiari were punished for possessing and reading the Bible. While Archbishop Hughes indignantly denies this charge, he brings against our character and institutions this accusation as one of equal or greater intolerance, which should foreclose us from complaint or animadversion. I am indeed amazed at this reference for any such purpose. That cause must be weak indeed which needs support like this. The Archbishop has left unnoticed, if not unheeded, the real principles which separate the American and Italian acts of intolerance by a vast distance, and which render our country responsible, as its share of reproach, for deeds of violence against the law, but punishable by the law, while the share of the

other is the responsibility of bad laws, unjustly administered, and striking at the very foundation of religious freedom. All people are more or less accountable for the prevalence of crime among them; but this is a very different accountability from that which attaches to the commission of great moral offenses, like the oppression of the human conscience, through the instrumentality of the law. The fanatical riots in London, in 1780, were a reproach to the English character, not because they were sanctioned by the Government, but because the Government had not the energy or the power to prevent them. The atrocious destruction of religious edifices in our own country no one can justify, not even palliate; but they are deeds which bring no other public responsibility with them than what attaches to negligent or feeble administration. The actors in them exposed themselves to heavy punishment, and I presume some of them at least met it, though I have not inquired into the fact. But certain it is, the courts were open to prosecution, and with ample power, and, I doubt not, disposition, to visit these offenses with the full severity of the law. As to the failure to make compensation for the scenes at Charlestown, of which the Archbishop complains, I must confess I have ever wished the most ample remuneration had been provided by the Legislature of the State. I think the circumstances were of a nature to render this, not an act of justice merely, but of feeling and of wisdom. But still, as a question of naked right, it must rest upon the general laws of the State, and not upon any peculiarity in the transaction itself. If those laws provide for making good, at the public expense, losses incurred by acts of violence, then the claim for pecuniary satisfaction could not have been resisted. I take it, that no political community is under any obligation to make compensation for injuries resulting from lawless violence. Whether they will do so in any case, and if so, in what case, are practical questions for municipal determination. It is obvious they cannot do it in all cases.

Notwithstanding the evident conviction in the mind of Archbishop Hughes, that the representations made to the Tuscan Government on the subject of the persecution of the Madiari family, would be barren of any useful result, fortified, as he must have considered his position, by the considerations presented in the official dialogue prepared by him; notwithstanding all this, the doors of their prison house have been thrown open, and these victims of an unjust law have been released from its penalties. I rejoice at this proof of the efficacy of that great redeeming and avenging power, public opinion; especially after such a bold experiment upon the feelings of the age. It is a good sign in the great contest going on between truth and intolerance, and, if not a promise, is, at least, an augury of better things for the future: an augury which will not fail, unless the liberal Governments of the world fail in their duty, and sit still inertly, instead of watching the progress of things, and doing, when national deeds are proper, and when they are not, by making known their opinions by representations not to be misunderstood, nor likely to be rashly disregarded.

And a new incident has occurred, in the case of a Miss Cunningham, to give more confidence to these expectations. Florence has been the theater



of another of these experiments upon the forbearance of the native population, and upon the opinion of the world, by the incarceration of an English female. The London Times, in a scathing article, headed "What are the Kings about?" reviews the employment of many of the European sovereigns, and a humiliating chronicle it is of folly and imbecility, where it is not a chronicle of something worse. That journal looks to the day when even prudent men will say, "Come what may, the world can do without them." "Things cannot be worse than that half a dozen men should give Europe up to fire and sword for the satisfaction of their own selfish passions."

If some *progressivist*, and I mean by that well-abused epithet, some man who advances wisely, but not rashly, with the spirit of the age, had said as much in this body, he would have stood a good chance to be denounced and called all manner of hard names, the mildest of which would have been a noisy demagogue. It is not in Europe alone, that the *prestige* of royalty dazzles the eyes and obscures the judgment, elevating the condition itself above the frailties of human nature. And it is one of those *coming events which cast their shadows before*, this holding up to public scorn and reprobation, by such a journal, existing abuses, and tracing their causes to the radical vice of a system controlled by wicked rulers self-abandoned to some of the worst passions of humanity. In the programme thus given of royal occupations, the Grand Duke of Tuscany takes his place, and is described as having, "in a fit of frantic fanaticism, just locked up a young English lady for bestowing an Italian Bible upon one of his subjects." This deed of mercy, in trans-Alpine regions, is *twice cursed*; it *curseth him who gives and him who takes*, exposing both equally to the severity of legal intolerance. Another account states that the offense which provoked the wrath of a paternal sovereign, and the severity of a wise and just law, was for giving to some unfortunate Florentine, not the Bible, but a copy of old John Bunyan's "Pilgrim's Progress," pronounced by one of the master-spirits of the last age, Dr. Johnson, a work of "great merit both for invention and imagination, and the conduct of the story;" and, he added, "it has the best evidence of merit in the general and continued approbation of mankind."

Youth and riper age will equally bear testimony as well to the fascination as to the virtuous tendency of this effort of true genius. What the Tuscan Solons discovered as dangerous to the State in this old and interesting parable, as I know not; I shall say not. It may be that the reigning Prince was apprehensive that he might be seized by the Giant Despair, and shut up in Doubting Castle. But, after all, what began weakly ended wisely. The tragedy became a farce. Experience, if it has not taught the authorities upon the Arno to avoid errors, has taught them, at any rate, the best mode of correcting them. After giving distinction to a person whose conduct leaves no favorable impression of her good sense, by drawing the attention of Christendom to another of those secular interferences with religious subjects which every prudent Government should seek to avoid, they dismissed the prosecution, or escaped from it in some way or other, and robbed the adventurer of the crown of martyrdom which was probably the principal object of her mission.

I commend the *denouement* to Archbishop Hughes: An act of the Grand Duke which sets at naught his own barbarous laws, notwithstanding the virtuous inflexibility assumed for him in this republican land. His next step should be to repeal enactments which it is disreputable to retain and dangerous to enforce.

The tenacity with which antiquated prejudices are adhered to in this day of public knowledge, is among the most extraordinary circumstances with which society finds itself surrounded. Feeble and contemptible Governments having lost, or never having acquired, the substance, seem desirous to preserve the semblance of virtue, or connecting the stability of existing political institutions and their abuses with the subjugation of the human conscience and intellect, hold on to these shackles as the shipwrecked mariner clings to the plank that upholds him in his hour of despair. It is difficult to restrain within proper limits the expression of that indignation which such insane despotism excites in every liberal breast. The war against the living is continued against the dead; and when the soul has fled beyond the reach of human tyranny, the body is refused a place of sepulture, and the surviving friends are prohibited the observance of those solemnities which are dictated by the instincts of our nature and by the spirit of the Gospel, and which, while they are a solace to the bereft, make the lesson of mortality to them and to others more impressive and enduring.

The cold earth, warmed once by a living spirit, is unworthy of a last resting place, even under the clod of the valley, because it adored God, not in the forms prescribed by a dominant religion, but in a manner dictated by its own sense of duty.

The Government of Spain stands prominently forward in this unholy warfare, and I learn from a communication I have seen from the highest American authority in that country, that there are great difficulties and obstacles in the way of obtaining permission for a cemetery, and that "without such special permission, restricted as it is with most intolerant provisions, it is impossible for a Protestant to enjoy the benefits of local interment, or have performed over his remains even the legal rite of Christian burial anywhere in this kingdom" of Spain. Various documents have been recently published by the British Government, casting a lurid light upon Spanish intolerance, which ought to make the name of the Government of Spain a by-word and reproach among the nations of the earth. The treaty of Utrecht, of 1667, secured the proper rights of sepulture to British subjects dying in that country; but Spanish obstinacy and bigotry are difficult to overcome; and it is but recently that any efforts to procure a compliance with this stipulation have promised the least success.

It appears that the British Ambassador, in answer to his repeated applications, was informed, a few months since, by the Spanish Secretary of State, that the "Queen, my sovereign, has at length granted permission for the construction of a cemetery near Madrid, for British Protestant subjects who may die in that city;" but with characteristic bigotry and intolerance, this long-delayed act of humanity has been disfigured with conditions that no man can read without contempt and disgust. The Spanish Justinian says:

"No church or chapel, or any other sign of a temple, or



of public or private worship, will be allowed to be built in the aforesaid cemetery.

"All acts which can give any indication of the performance of any divine service whatsoever are prohibited.

"In the conveyance of the dead bodies to the ground, any sort of pomp or publicity shall be avoided."

It is difficult to read this declaration of war against the feelings of the living, and the last duties which belong to the dead, and realize that it is sent forth to shock the moral sense of mankind in this nineteenth century of the Christian era, and in this period of general knowledge, avowing, as Lord Palmerston well said "principles of action belonging to an age which has long since gone by." And whence comes this missive, which almost bids the dead to bury their dead? From a corrupt Court and an effete Government; and I speak with due reflection when I say this. A characteristic fact is stated in a late number of the London Times upon its editorial responsibility, which, painfully disgusting as it is, should nevertheless be held up for universal reprobation, branding, as it does, with a red hot iron, the occupants of high places ruling by divine right, and by the grace of God, (by the wrath of God rather,) and taking into their own custody the faith of the people in life, and their mortal remains in death. "If we step across the Pyrenees," says this great European censor, "we find the most important point connected with royalty at Madrid to be contained in the announcement, which was published in our foreign correspondence on Tuesday. Negotiations are on foot to induce the father of the reigning 'favorite' to accept the embassy to Vienna, with the additional gratuity of 3,000,000 of reals, (£30,000, nearly \$150,000,) to the favorite himself to accompany his worthy parent. A near relation of an influential member of the Cabinet is spoken of as likely to be the new 'favorite.' Here is news for Europe!"

All this is sufficiently intelligible without being rendered into more downright English, though, indeed, the language could not be as plain as the conduct it holds up to scorn, without the use of expressions fitter for the orgies it exposes and denounces than for halls of legislation. The *Mesalina* of ancient days was but the prototype of some royal personages in our own times; and the coarse but characteristic trait touched by the Roman satirist, Juvenal, proves itself as true to human nature now, libidinous human nature, indeed, as it was when applied to the wife of one of the successors of Augustus:

*"Et lassata viris, needum satiata recessit."*

Since Philip the Fifth crossed the Pyrenees it would be difficult to point out a single noble deed, or one generous sentiment, to redeem the Spanish branch of the Bourbons from universal obloquy. There is not a well-informed man in Europe, conversant with the passing history of royal courts, who does not know the contempt for the proprieties and decencies of life which is exhibited in the very highest place in Madrid, occupied by one who guides and guards the consciences of the nation, for some inscrutable purpose subjected to her authority by a wise Providence. Well has it been said that God shows sometimes his contempt for human power by placing it in such hands.

And the October number of Blackwood, that concentration of tory and high monarchical prin-

ciples, bears its testimony, and, from its predilections, that testimony is decisive, to the sad state of morals among the governing class in Spain, and to the causes which have led to it. "The gross irregularities of Isabella," says that journal, "are as notorious in her capital, and throughout Spain, as anything of the kind can possibly be." "When such bright examples are set by royal personages, it is truly wonderful that any morality or honesty remains in Spain. The quantity is not large, and it must not be sought among the statesmen of the country." And yet, with these claims to the detestation of the world, rulers thus branded with infamy take unto their keeping the pure religion of the Saviour, and make their own professions—principles they have none—the standard of true-faith, visiting with severe punishment all who vary from it in doctrine or in discipline.

Few greater curses can befall a nation than such an open disregard of the precepts of the Creator, and of the opinions of mankind, by those occupying the highest stations, whether hereditary or elective. The disease is contagious, and the moral leprosy, more loathsome than that of the body, extends its ravages through the whole country, till checked by one of those national punishments by which, sooner or later, national sins are sure to be visited. But, sir, I am happy to believe that scenes like those of Madrid mark the exception, and not the characteristics, of European Courts at this day. Certainly, there are signal examples of the most honorable and irreproachable conduct in the households of sovereigns; and the present reigning family of England, and the late one of France, deserve universal commendation for their strict regard to the proprieties of their position, as well as to the moral duties of life. This conduct is not only a just homage to virtue, but a powerful coadjutor in its labor and success. If Archbishop Hughes would devote his strong intellect to the preparation of a second dialogue, holding up to public scorn and reprehension these scenes of royal licentiousness, he would render a much more acceptable service to the cause of virtue than by the colloquies he has furnished us, and by which he seeks to prove our participation in intolerance, if not as a justification, at any rate, as a bar to our judging and reproving the intolerance of others.

The British Ambassador at Madrid indulges in some natural expressions of indignation in his report to the Secretary of State for Foreign Affairs at this contemptible display of narrow bigotry, which he well reproveth by asking the Spanish Minister whether his Government expected that the dead body is to be "smuggled" to its last home, and "without its being known that it is a dead man?"

But, after all, the Englishman finds a grave; for here is a decree which allows him one, into which, however, his friends must cast him as they would the beasts that perish; but the American, to whom the ordinary misfortune of death is not enough, but to which is added the misfortune of its advent at Madrid, where is his body to find repose? Is it to commence its wanderings in death, having terminated those in life, and to continue them till some friendly Potter's field can be found to receive the stranger, and where the weary shall be at rest?—for "a private garden, in which it can



be buried secretly"—a place of deposit which has sometimes been humanely offered—cannot always be expected. Graves are gifts which are hard to wring from private benevolence in a persecuting country. Such an act of charity, secretly administered, has already provided a final home for one American Minister—Mr. Carmichael, dying at Madrid, where he was covertly buried, without ceremony. Another garden might not be so readily found to receive the remains of the representative of a great Republic; nor is the ocean near to supply with its strand an unstable receptacle, such as not long since furnished the only place of interment for foreigners not Roman Catholics dying at Malaga. Who can read the following extract from a report made upon this subject without feelings of indignation which it would be as difficult to describe as it would be to suppress? Till within a few years "the remains of Protestants were stealthily conveyed by night to the sea-board, attended by a few trembling friends, and deposited in an upright position in holes, with scarcely any more ceremony than would have been awarded to the beasts of the field."

The most recent account I have seen of the progress of the Spanish Government, in the solution of this great question of Protestant interments at Madrid, involving the faith and the fate of *Spain and the Indies*, I find in an extract from the *Journal des Debats*, which says, quoting from the Madrid paper, the "Epoca," "That the question of the Protestant cemeteries was again discussed in the Royal Council on September 15, and that M. Martinez de la Rosa, and several other Counselors, expressed themselves in favor of the 'concession'—that is the word—the concession of the right to be buried. Well, this is something in that land of retrogression; and perhaps, before graves are rendered useless by the coming of that day appointed for them to give up the tenants of the prison-house, a legal decree may sanction the "concession," and leave Protestant Christians as free to be buried as to die.

In the mean time, while the counsels and the conscience of the august Sovereign of Spain are equally tried, and equally perplexed by this question of earth to earth, and dust to dust, her royal colleague, the august Sovereign of Siam, has just issued an edict honorable to himself and truly Christian in its spirit; an edict which assures to all foreigners in his dominions, whatever may be their religious creed, entire freedom of worship, and the right of interment for all who may die there. Well done for the follower Budha. And, if recent accounts are to be credited, the sable but still august Emperor of Hayti, has come out from among the persecutors; for the public journals report, that in a conversation with an American captain, who had been exposed to some difficulty in consequence of copies of the Bible having been found on board his vessel, he said, "I shall be happy to have on the island as much of that reading matter as you can bring; and if any person interferes with you, let me know." This is so true to reason and revelation that I am willing to believe it true to fact. Well done for the Ethiopian, who can change his heart, though not his skin.

And, as might well be expected, the Metropolitan example is followed in the Spanish colonies; and a letter addressed to the Rev. Doctor Fair-

child, of New York, has just gone the round of the papers, communicating a condition of things in Cuba not less humiliating to human nature than repugnant to the best feelings of the American heart. I have made inquiry of Doctor Fairchild, and have learned from him that the writer of this letter is a most "estimable and reliable man," and that his statements may be depended on. I am not going over his narrative. Sir, it would be no pleasant task. I content myself with a very general reference to it, sufficient, however, for a correct appreciation of the state of matters in Cuba connected with this subject.

It seems that the wife of a Protestant American citizen died near Matanzas, beseeching her husband, almost with her last breath, to have her remains taken back to her native country, and not left in the horrible place where alone foreigners not Roman Catholics can be buried in that part of the island. She had learned the condition of this mound of corruption, this Cuban Golgotha; for it is a fetid mass, inclosed with brick walls, and raised by accumulated deposits to a height of twelve or fifteen feet above the ground, and there human remains in a state of dissolution strew the surface, bleaching, decaying, decomposing, not less offensive to the senses than to the moral feelings. Other details are given which are too painful for recapitulation. Well might a delicate and dying female shrink with horror from the idea of sleeping the sleep of death, surrounded with these exhumed relics of mortality, and soon to become part of them. To bury elsewhere, even in private ground, is stated to be punishable with a fine of \$2,000. Why, God only knows. It is hard for man to conjecture. To obtain permission to send the dead body from the island would have cost from \$1,500 to \$2,000, even if the application were successful. But serious doubts were entertained by the consul, founded, I suppose, upon his knowledge of the course of the Government officials, not whether the money would be accepted—that was taken for granted—but whether impediments would not be thrown in the way, with a view to still further extortions, which would ultimately defeat the object. To send the remains away without permission would have exposed the parties to a fine of \$1,500, and to five years imprisonment, and the vessel to forfeiture. The afflicted husband encountered the risk, and the body of his wife now rests in this land of safety, henceforth to be undisturbed, till disturbed by the trumpet of the archangel.

Feeble, indeed, would be any commentary upon this terrible picture of impious tyranny. I shall attempt none. It is understood that the island, some how or other, contributes large resources to the necessities and the pleasures of Queen Christiana. A custom-house tariff upon the exportation of a human body for the purpose of interment at home is new in fiscal science. Its origin is worthy of its application.

And another kingdom upon the Iberian peninsula, not content with its fall from the glorious days of De Gama and of Camoens, nor satisfied to be shielded from the contempt of the world by that insignificance which imbecility and ignorance are sure to produce in the career of nations, seeks distinction, not merely by the perpetuation of existing abuses—that there is some excuse for in the moral constitution of human nature—but by their



formal incorporation into a new code of criminal law. So late as the 10th of December, 1852, the Government of Portugal decreed that "the celebrating of public acts of worship, not that of the Catholic religion, should be punishable with imprisonment from one to three years, and to a fine proportioned to the income of the offender." A reigning family saved by Protestant arms, thus testifies, by its acts, how little worthy it was of the efforts that sent it back to misgovern a country which owes much to the bounty of nature, but whose prosperity is marred by the presumption, and intolerance, and ignorance of man. And the humble American Christian, who seeks to worship the God of his fathers in this land of iron religious despotism, is seized by the law and shut up for years with thieves and robbers, guilty of an equal crime in this system of Portuguese jurisprudence.

Some of the Republics upon this continent, of Spanish origin, seem to feel at liberty to follow the example set them by the parent country, and to play the religious tyrant with foreign residents coming among them. Admitted last into the family of nations, their conduct in becoming the slaves of blind and bitter prejudices proves they have much to learn before they are fitted for the enjoyment of rational liberty.

In Valparaiso we are told that Protestant worship is "connived at," any religion but the dominant one being constitutionally prohibited, but that recently the party of exclusion has gained ground, and there is reason to fear that the little freedom now allowed will become less. At Santiago, the capitol of Chili, the foreigner has not even the "connivance of the authorities" in the performance of his religious duties, but must worship at the established church, or not worship at all. And it is further stated, upon the most respectable authority, that the writer had "just learned from the American consul at Talcahuano, that among other like acts, the local authorities refused permission to bury the dead body of an infant child, son of the captain of an American vessel, and that the body was, of necessity, taken to sea and put overboard."

A grave was found which mocks the strength of man, but will hold its trust as safely, and render it up as faithfully at the summoning of the great congregation of the living and the dead, as the stateliest mausoleum constructed by human power for human pride. And I have seen an official report, in which it is stated that, in answer to the earnest representations made to the curate for his coöperation in order to procure permission for the burial of this infant child, he refused, saying, that "if it were buried, there was nothing to prevent it from being dug up, as it was no better than the carcass of a dog or a cat, it not having been baptized." How different is this revolting sentiment from the words of him who said: "Suffer little children, and forbid them not, to come unto me, for of such is the kingdom of Heaven." The incarnate Saviour looked with kindness upon infant innocence. Man, presumptuously speaking in his name, degrades the image of God to the beasts around us, unless saved by an external rite, administered in conformity with the tenets of a particular church.

And in still further illustration of the practical effect of this exclusion of Protestants, in some

Catholic countries, from the rites of burial, another fact is well worth public attention. In 1851, an American citizen, Mr. W., (his name is given in full in the official report,) was at the point of death at Santiago; and such was his anxiety for Christian interment, that one of his friends called upon the American Minister for his opinion, whether it would not be proper that he should make a profession of Catholicism as the only means of securing his final deposit in the public burying ground. Notwithstanding the advice of the Minister, the ceremony of recantation was performed *in extremis*, and the dying man, by this nominal change of faith, bequeathed his body to a consecrated place of sepulture.

It seems also that Chilian presumption seeks to direct the education of youth as well as to control the conscience of mature age, by giving the supervision of all institutions for teaching, even for the education of foreigners to the clergy of the established religion. Whether this effort will succeed depends perhaps upon the firmness of the Governments whose citizens have a temporary residence in Chili. I have accidentally fallen upon some of these facts without searching for them. But it is proper that such occurrences, wherever they may happen, should be known, as their knowledge is essential to a just appreciation of the condition of American citizens abroad, and of the duty of the Government to use its exertions to redeem them from this tyranny over mind and body.

It is difficult to deal patiently with this presumptuous oppression, or charitably with those who exercise or extenuate it. And I will not doubt but that the members of the Catholic church in this country will condemn, as severely as their Protestant brethren, this insane warfare upon the dearest rights of human nature. It is no part of true religion, whether Catholic or Protestant. It is sheer stolid bigotry. There are Catholic nations in Europe—France, for example, and, I believe, Belgium, and, perhaps, others—as guiltless of this vile persecution of the living and the dead as is our own country. While they are faithful to their own creed, they are tolerant to that of others.

How far abuses like those I have referred to in Chili may exist in the other Republics south of us, I do not know. There is no reason to believe, however, that they are wholly exempt from the spirit nor from the practice of persecution.

And what a spectacle is here presented! Americans, in infancy, are deprived of the means of education; in mature age, of the liberty of religious worship, and in death, of a depository of the image of the Creator, after the guiding spirit has left its tenement of clay.

But, sir, Protestant as well as Catholic countries are exposed to the reproach of this kind of legislation over the conscience of man. Intolerance belongs to no one sect, nor creed, nor country. It takes its rise in the weakness of our nature, and triumphs over the dictates of reason and of revelation. Protestant Sweden has obtained an unenviable distinction in this unholy warfare, and her Legislature has passed an act of self-styled toleration, but of real intolerance, difficult to be accounted for in a country possessed of much general information and of much practical freedom.

This Swedish law provides that foreign residents



in the kingdom shall establish no school houses, nor other seminaries for the "spread of their faith," nor "support missionaries to teach it." "That Jews shall have synagogues only in Stockholm, and at most, in two or three other large places, where, under a proper police, they may be duly watched." "That the processions and ceremonies usual among foreign religions shall be forbidden," &c. "That persons converted from the religion of the State shall be punished." And recent intelligence from Sweden makes known that this law is no dead letter, but that the spirit of intolerance which prompted its passage presides over its execution. A prosecution, it seems, has just been instituted against a number of females for the *high crime* of quitting the Lutheran and joining the Catholic church! Punishment will follow for the converts who have obeyed the dictates of their conscience, but disgrace and condemnation await the Government and people thus establishing persecution as a part of their political system.

And Norway, and Mecklenburgh, and Saxony, and probably others, all Protestant States, have also sullied their legislation with similar acts of fanatical persecution. I have no pleasure in the enumeration of these deeds of folly and presumption in any State, nor have I more pain in exposing them in a Protestant than in a Catholic State. It is all one to me where committed. I earnestly desire that legislative codes should be everywhere freed from these impious regulations, and that man be left as free as God created him to worship his bountiful Maker. When a sect becomes a dominant one, from the very tendency of human nature, it is prone to become a persecuting one. The old English writ *de heretico comburendo*, freely but truly translated, was a writ to burn any one who differed in his religious views from the ruling power for the time being, or, as an old statute called the offenders, "teachers of erroneous opinions contrary to the blessed determination of the holy church." And it was no barren claim, this assumed right of judgment and execution in matters of religious conviction, for it was enforced to the death upon thousands of innocent victims, down even through the Protestant reigns of Elizabeth and of James the First. And this is that legal intolerance which may legally terminate in a horrible death, and which Archbishop Hughes gravely tells us is practically the same as social intolerance; as that condition of society where persons of various sects, and with rancorous prejudices, may confine their associations and their business to the members of their own persuasion. A state of things, however reprehensible, still equal for all, which no law can control, and which must be left to find its remedy in the consequences of its own mischievous injustice.

The inveterate predisposition to make God's cause our own, taking it from him, to whom alone it belongs, and to persecute all whose heterodoxy varies one hair's breadth from our standard of orthodoxy, is one of the strangest phantasies of human nature. Most happily is it exposed and rebuked in the beautiful apologue of Dr. Franklin; so scriptural in its language and spirit as to have deceived many into the belief that it was a biblical story. It runs thus:

¶ Abraham, sitting at the door of his tent, and seeing a stranger pass by, invited him to enter and sojourn with him in the true impulse of Arab hospitality of that day and equally of this. Finding, however, that the traveler would

not worship the God of his host, because he had a God of his own, "which abideth always," he said, "in mine house, and provideth me with all things;" the Patriarch's wrath was kindled, and he drove his guest, with blows, into the wilderness.

And at midnight God called to Abraham and said, "Where is the stranger?" And Abraham answered "He would not worship thee, therefore I drove him out from before my face into the wilderness." And God said "Have I borne with him these hundred and ninety and eight years, and nourished him and clothed him, notwithstanding his rebellion against me, and couldst not thou, that art thyself a sinner, bear with him one night?"

And thus it has been, and thus it is, we are prone to drive one another into some wilderness of persecution, frequently to death, in the name of that God who spares all and sustains all, though all are equally unworthy of his kindness and mercy.

These golden words are Vattel's. I persuade myself they will be everywhere written upon the human heart and understanding before the world is much older: "Do but crush the spirit of persecution; punish severely whoever shall dare to disturb others on account of their creed, and you will see all sects living in peace in their common country, and ambitious of producing good citizens." Where all persuasions are protected by equal laws, and none are established by exclusive ones, practical intolerance will soon disappear, because no interest will exist to nourish mutual prejudices, nor power to indulge them.

It is a humiliating reflection, that in the race of persecution, many of the Christian Powers have outstripped their Moslem competitor. It has been a long contest, and a bitter one begun early and continued late, and carried on with fiery zeal, writing its history in characters of blood; but the follower of the prophet has yielded, and friendly remonstrances, and the light of truth, have at length been felt even in the high places of Islamism.

The Imperial Manslayer, one of the titles of the Sultan, and once not a barren one, who issued his degrees from the royal stirrup, and annually ransomed his Christian subjects from death by the payment of the *haratsch*, for a year, embraced the legal tenure of Christian life by the Turkish law, has taken his place among the liberal sovereigns of the earth, feeling his responsibility to the public opinion of the world, and shaping his course in conformity with it. His appeal to that great tribunal, contained in the State paper recently issued, refuting the unworthy pretext by which the Emperor of Russia sought to give to his ambition the guise of religious fanaticism, repelling his pretensions with equal power and calmness, is one of the noblest tributes to the spirit of the age which has recently come to gladden those who, grateful for so much, yet anxiously look for still better things. It asserts boldly, though in the form of an interrogation, which challenges contradiction, that *no obstacles now exist to the exercise of the Christian religion in the Ottoman Empire*. A proud boast, and, I believe, a true one. And the declaration of the Governor of Adrianople, just made to an assemblage of its principal citizens, is a beautiful and practical commentary upon this claim of toleration. The Pasha of three tails (he deserves forty of these honorary caudal appendages) said:

"Our creed is different; but if we obey the law, we pray in the mosque, the Christians in the temple, and the Jews



in the synagogue, and we are not less faithful subjects of the Sultan. We are therefore brothers, and ought to love each other as such."

And this, while the Russian Autocrat announces in his proclamation that his mission is to annihilate paganism, and that whoever stops him in his course will be annihilated like the pagans.. The King of Babylon boasted of the might of his power, and of the honor of his majesty; but He who raiseth up and pulleth down sent him to eat grass in the field, till his understanding returned to him, and he learned that those who walk in pride will be abased. The Czar may yet be taught the same lesson.

And who is this self-constituted champion of the religion of the meek and lowly Jesus, whose high mission it is not to convert, but to annihilate? He is the head of the Russian branch of the Greek church, which claims for him the title of vicegerent of God, and makes him the object of faith and worship. Through all the vast regions which acknowledge his sway, and which are subjected to the supremacy of the knout, not a single copy of the Holy Scriptures, in the modern Russ, the vernacular language of the country, can gain access to the population; and though the Savior has said, "Go ye into all the world and preach the Gospel to every creature," yet he who assumes to be his missionary of annihilation dares to say, "If you come to preach the Gospel in my world, I will send you to Siberia." "Who is ignorant," said Mr. Von Wincke recently in the Russian Chambers, "Who is ignorant of the persecutions to which dissenters and the Catholic and Evangelical religion in Russia are the object? Imprisonment and Siberia await the missionaries. It is the most cruel intolerance formed into a system." And this new crusade, by which destruction is to take the place of persuasion, nominally owes its origin to a dispute about the possession of a desecrated church and an empty sepulcher. Monuments, interesting, indeed, from their associations with the most wonderful events in the history of man, though with very doubtful traditionary claims to be the precise places of the scenes they commemorate, but sinking into insignificance in the eye of reason and of faith, when compared with the tremendous evils, both moral and physical, which are threatening the old continent, and whose consequences may be felt in the new. The world before this has seen unscrupulous ambition march to its object under the cloak of religious pretenses. But never has any such spectacle been exhibited, more revolting to the moral feelings of mankind, than that which is now fixing the earnest attention and receiving the condemnation of the nations of Christendom.

Protestant places of worship have recently arisen

even at Jerusalem, under the shadow of the Mosque of Omar, upon Mount Moriah, the site of the Temple of Solomon, while in more than one of the capitals of the Christian world an American believer in the word of God, but who does not believe in the creed of the established church, is allowed no place of public worship, but must worship privately, by connivance, as it were, or not worship at all; and even this "connivance" is withheld from the native citizen, whose secession from the dominant faith is a high offense, sure to be visited by severe punishment.

And the soil of the holy land, once trod by the feet of the Saviour, is not too sacred to receive the lifeless remains of his Protestant believers, while there is no fitting repose for him in many a Christian land desecrated by dark deeds and darker presumption.

Even so late as the 25th November, 1852, a decree was issued from the royal manufactory of intolerance at Madrid, which "prohibited any stranger, whether domiciliated or traveling in Spain, from professing any other religion than that of the Catholic Apostolic Church of Rome."

Now, here is an act which has been justly denominated in the English House of Commons an "incredible" one, aimed specifically and exclusively at foreigners, depriving them of one of the most sacred and inalienable rights of man, and which shuts the borders of Spain to their entrance, unless at the sacrifice of their convictions, or the hazard of punishment.

And does Archbishop Hughes believe that all these abuses are destined to continue, untouched and unchanged? That they will much longer resist the mighty tide of public opinion, which has already done so much in these our latter days, and is fated to do so much more? It may not be. The past is a pledge for the future. Within the memory of the present generation the abuses of ages seemed to possess an impregnable fortress, occupying its position in the midst of Christianity and civilization, and overlooking and overawing both. But one after another its outworks have fallen before the efforts of truth, and ere long the citadel itself will be leveled to the ground. And are the representatives of the American people to lay their hands on their mouths, and their mouths in the dust, to look on and see the persecutions and oppressions to which their countrymen are exposed abroad, and not even express their displeasure and their demands? And all from an affectation of national decorum, national squeamishness, it should be called, which is so tender to the presumption of others as to sacrifice our own true rights and honor. I trust no such humiliation is in store for us.



