

These and other passages in his book suggest that positive law is not an original entity but derivative and is related to other elements in social life; that its fundamental principle lies in the nature and essence of man; that the spirit in humanity which makes positive law gropes its way toward the fundamental, called, by Vecchio, "the essence of human nature." Undoubtedly positive or particular law, man-made or nation-made, has no life with which to evolve itself. It does change, it may improve, but only as the progressive spirit in humanity makes changes and improvements in living conditions, and necessitates suitable laws for them.

Let us assume what is generally accepted: That all life, including human life, is created according to a design, a principle or law for its existence and continuance and for the purpose of its being, both as individuals and as members of society, and that in respect of the latter its essence is fairness and justice, and I may safely add, kindness, that if such law regulating human life were fully disclosed to the people it would be regarded as positive law, and in so far as it related to the human in society would be enforced accordingly by constituted authority; that such law is always beneficent but contains in it as a necessary incident corrective provisions for its breach or non-observance, which may be very painful to the wrong-doer, but yet are benevolent and for the protection of social and physical existence. To illustrate in physical life: If a child puts its hand upon a hot stove or its feet touch boiling water, instantly it suffers torment, benevolent torment, a sentinel to warn and thus prevent the loss of those members or its life.

Illustration in respect of moral life may be found in Shakespeare thus:—

"My conscience hanging about the neck of my heart
Says very wisely to me 'Budge not'
'Budge' says the Fiend,
'Budge not' says my conscience."—*Merchant of Venice*.

What follows if one budges,

"The dread of something after death
Puzzles the will.

Thus conscience does make cowards of us all!"—*Hamlet*.