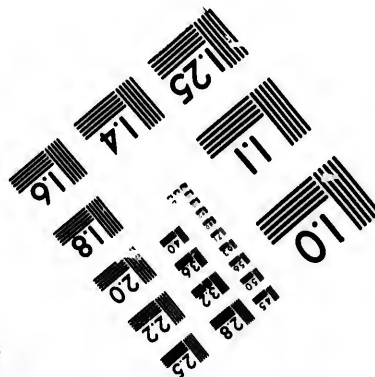
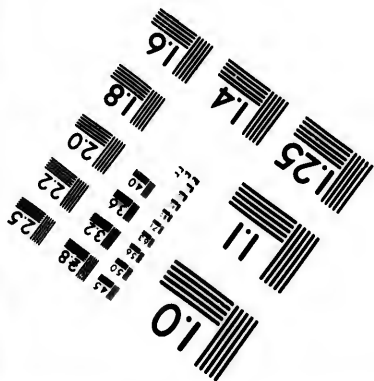
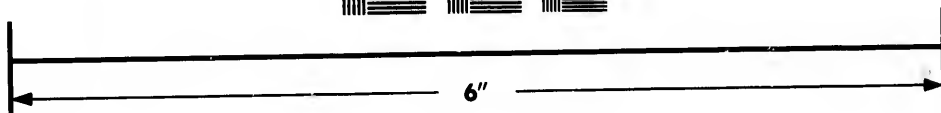
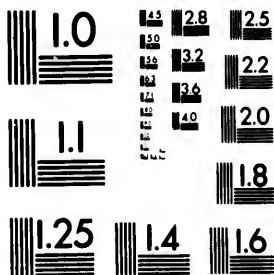


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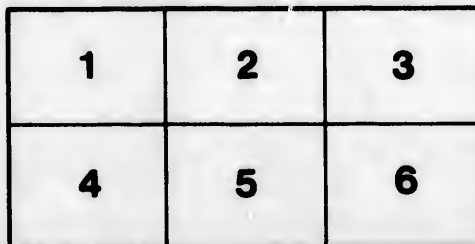
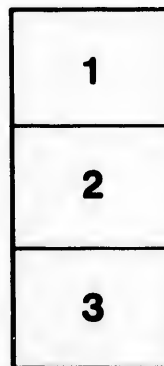
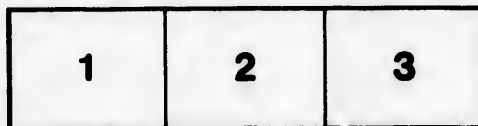
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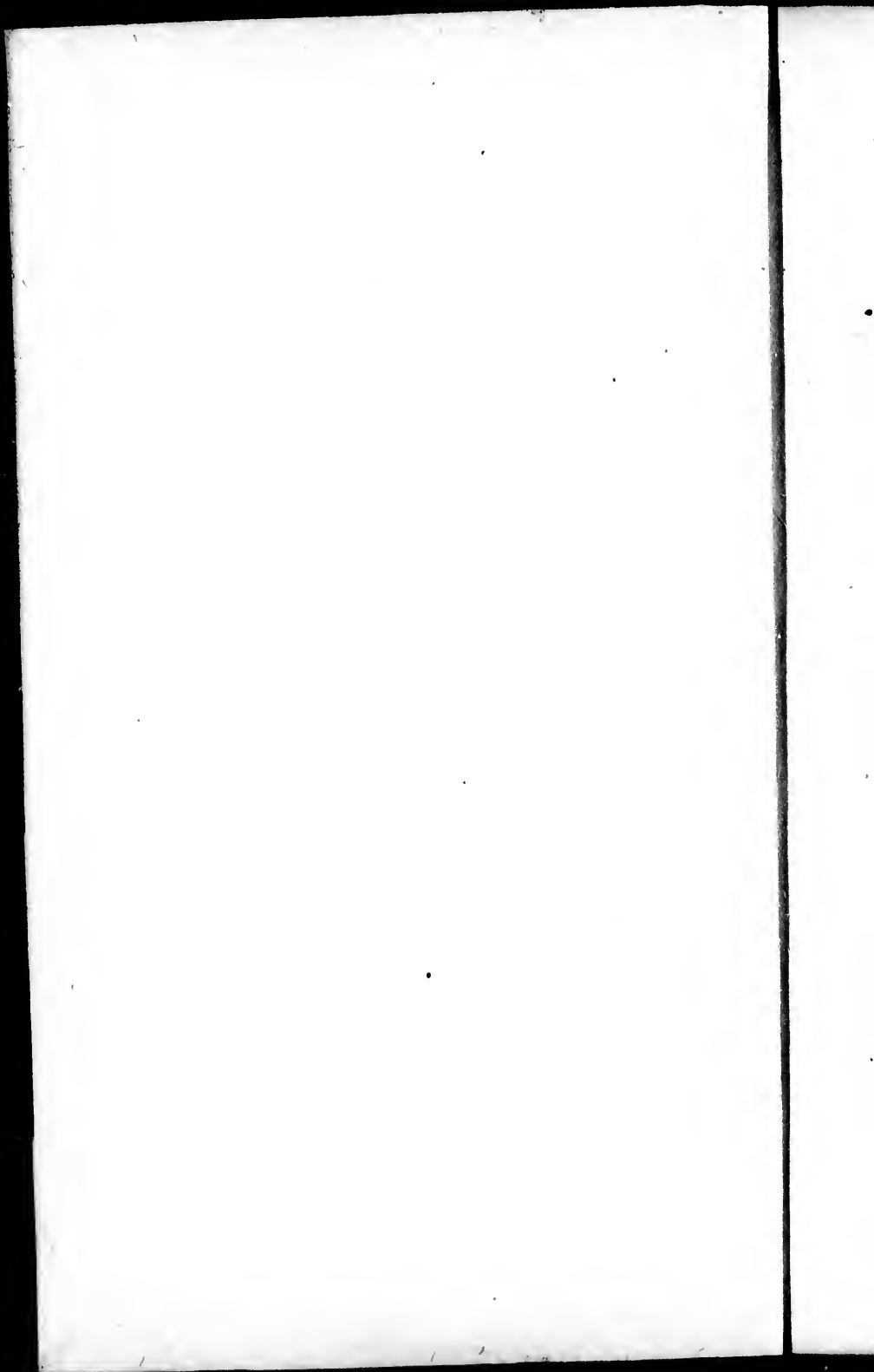
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A

DISCOURSE

ON THE

LAW OF RETALIATION,

DELIVERED IN

THE NEW BRICK CHURCH,

FEBRUARY 6, 1814.

—
BY JOHN LATHROP, D. D.
PASTOR OF SAID CHURCH.
—

PUBLISHED BY REQUEST OF THE HEARERS.

—
BOSTON :
PUBLISHED BY JAMES W. BURDITT.

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1814.

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DISCOURSE.

MATTH. v. 38, 39.

YE HAVE HEARD THAT IT HATH BEEN SAID, AN EYE FOR AN EYE, AND A TOOTH FOR A TOOTH. BUT I SAY UNTO YOU, THAT YE RESIST NOT EVIL.

IN discoursing from these words, it is not so much my intention to show what opinions moral writers and writers on the law of nature and of nations have expressed concerning the doctrine of retaliation, as to show what appears to have been "the mind of Christ," and what comports with the religion, which he founded, and which we profess.

In that most excellent lecture on christian morality, which our Lord delivered on the mount, he explained several precepts of the law of Moses, in a manner very different from that in which they had before been explained; and by some new commands, which he saw fit to give, he virtually repealed certain precepts found in the code appointed for the Hebrews.

In that admirable discourse, Jesus, among other things, called the attention of his disciples, and of

the multitude assembled, to a statute given by Moses, which was supposed to tolerate a retaliation of injuries. "Ye have heard that it hath been said, "an eye for an eye, and a tooth for a tooth." That law we find in the 21st chapter of Exodus. It may be proper to inquire, how that law was understood? How it was executed under the Hebrew government? Is that law still in force? What appears to have been the mind of Christ with respect to it? Will the doctrine of retaliation, as understood by the Hebrews, comport with the spirit of the christian religion? Correct and proper answers to these, or such like questions, will give the information which we seek on the subject now before us.

The law to which Jesus directed the attention of his hearers, in the text we are now considering, is repeated in the 24th chapter of Leviticus. "If a man cause a blemish in his neighbour, as he hath done, so shall it be done unto him. Breach for breach, eye for eye, tooth for tooth. As he hath caused a blemish in a man, so shall it be done to him again." This is the law to which Jesus called the attention of his disciples, and the people, who were at that time assembled to hear him. This law seems to require, or, at least, permit the judge to inflict the same evil, in kind and degree, upon the guilty person, which the guilty person had inflicted on another. This is what is generally called *retaliation*. It is not only rendering evil for evil, but it is rendering the same kind of evil, and to the same degree.

But before we proceed any farther we will inquire, how was this law understood? How was it

executed under the Hebrew dispensation? Was it understood in a literal sense? And was the judge bound to take "eye for eye, and tooth for tooth?" Or might the judge, with the consent of the injured person, order that compensation be made in money in lieu of "eye for eye, and tooth for tooth?" An answer must be sought in the expositions, which have been given of this law, if any approved expositions have been preserved. It is well known, that there were men among the Hebrews, at the time when Jesus was on the earth, called lawyers, and doctors of the law, whose business it was to study and expound the laws, to the end that people, in general, might understand and obey them. Among those lawyers, there were many, to be sure, who gave strange expositions; and, by propagating wild and absurd opinions, corrupted the law. Against such men our Saviour pronounced the "woe unto you, ye lawyers!" But we cannot suppose, that all of that profession, that all the expounders of the law of Moses, were ignorant or wilful corrupters of the law. Although the age at which Christ appeared on earth was an age of general depravity, there were excellent people still remaining. What better people are now to be found, than were Zacharias and Elizabeth? We have the testimony of the divine word, that, while members of the Jewish church, "they were both righteous, "walking in all the commandments and ordinances "of the Lord blameless." What better man can now be found, than was Simeon the just. And Simeon was a member of the Jewish church: he was "waiting "for the consolation of Israel, and the "Holy Ghost was upon him." What better wo-

man now liveth, than was Anna the prophetess ?
 “She departed not from the temple, but served
 “God with fasting and prayer, day and night.” Others
 might be named, were it necessary, who shone
 as lights at that age of darkness and general corrup-
 tion ; and we can have no doubt, but there were,
 in the Jewish church, at the time when Jesus was
 born, and after he left the world, pious and learned
 men among the Hebrews, who endeavoured to
 make themselves acquainted with the laws of Mo-
 ses, and from whose comments we may learn how
 those laws were understood, and how they were ex-
 ecuted.

From the best expositions, which have come to
 our knowledge, it certainly appears, that the men,
 who were entrusted with the execution of the He-
 brew laws, did not consider themselves bound, in all
 cases, to execute the law now before us literally
 as it stands in the sacred books.

The injured person might choose, whether the
 man, who had maimed him, or had put out an
 eye, or struck out a tooth, should be maimed in
 like manner, and compelled to lose an eye or a
 tooth, or should be obliged to make such com-
 pensation in money as might be judged equivalent.
 “The Jewish doctors,” says Dr. *Whitby*, “gen-
 erally maintain, that the punishment of an eye
 “for an eye, or a tooth for a tooth, might be re-
 deemed by money.” Josephus, a learned Jew,
 who must have been well acquainted with the an-
 cient laws and customs of that nation, has the fol-
 lowing paragraph in the first book of his Antiquities :
 “He that strikes out another man’s eye, shall for-
 “feit his own, and make satisfaction in kind, an eye

“ for an eye, unless he shall think fit to com-
 pound for it with money ; for the law will so far
 allow a man to be a judge, in his own case,
 where he shall think it fit to moderate the rigour
 of a penalty for an injury done to himself.”

The most approved commentaries on the law of
 Moses are quoted, as supporting the moderate ex-
 planation of the doctrine of retaliation, which is
 here given by Josephus.

But if there was a law, under the Jewish dispen-
 sation, which gave a person, who had, by assault
 and violence, lost an eye or a tooth, liberty to de-
 mand an eye or a tooth, from the man, who had
 thus injured him, is that law still in force ? What
 do we find to have been the mind of Christ as to
 this subject ? Would such retaliation of an injury
 comport with the temper of the gospel, and the
 spirit of the christian religion ? To such questions,
 I believe, our text will furnish sufficient answers.
 “ Ye have heard that it hath been said, an eye for
 an eye, and a tooth for a tooth ; but I say unto
 you, that ye resist not evil.”

Here we have, what may be considered, a new
 law, for surely the word and command of Christ is
 a law, and ought to be considered, by all who call
 Jesus their master, a law, which they are bound to
 obey. Here we find a new law opposed to that
 old law of retaliation, which was given by Moses.
 That old law, therefore, however it might have
 been understood and expounded by the Jewish
 doctors, seems to have been repealed and done
 away, by the command of the Son of God, expres-
 sed in the last clause of our text.

The expounders of the law, which we have been considering, agree, that the injured person might, if he were so inclined, demand retaliation in kind ; that is, he might demand, that the person, who had maimed him, or deprived him of an eye or a tooth, should be maimed in the same way, and be obliged to suffer the same kind of loss and pain. It seems to have been left to the injured person to choose, whether he should be compensated with money, or have the law executed literally. It is said, however, that few people among the Jews were so cruel, as to demand "eye for eye, or tooth for tooth ;" and as learned expounders of the law gave their judgment that retaliation in kind and degree, might be dispensed with, in most cases a pecuniary compensation was preferred. It was in the power of the injured person, however, to demand "eye for eye, and tooth for tooth ;" and this kind of punishment, this retaliation of evil for evil, seems to have been the very thing forbidden by our great master. To demand retaliation in kind would have been, "to resist evil:" it would have been contrary to the command of Christ ; and contrary to the spirit of the christian religion.

It is to be observed, that the law under consideration, never gave liberty to any individual subject, to retaliate his own wrongs. If a man, by an act of violence, were maimed, or deprived of an eye, or a tooth, the law did not give him liberty to inflict a like injury in a sudden manner, and in his own way. He must make his complaint to the judge, and the assault being proved, he was then at liberty, either to receive the awarded compensation, or require the law to be executed in all its severity.

But this kind of severity, in retaliating an injury, was not allowed by the Son of God; a punishment so severe and cruel, those who professed subjection to him, must not require. The learned commentator before mentioned (Dr. Whitby) observes, "Christ forbids the christian something which was permitted to the Jew." The thing permitted to the Jew, when injured in any of the ways mentioned in the passage where the law is recited, was, that, if he saw fit, he might demand retaliation in kind; but *this*, which would be to "resist evil," is absolutely forbidden the christian, in the words which make the closing part of our text.

We have now, perhaps, said as much as may be necessary in answer to the questions proposed at the beginning of this discourse; and I believe we are now able to understand, what was the mind of Christ, with respect to the law of retaliation. You will please to attend to such remarks and observations, as may naturally rise from the subject, and from the thoughts which have already been suggested. And,

1. The subject and the thoughts, which have been suggested, lead us to admire and to love the christian religion. This religion is mild and gentle, as was its author. It may be supposed, that the men of the world, men of fashion and gaiety, will not be pleased with this religion, because it brings restraints with it, and will not allow them to resent injuries in their own way, and render evil for evil. Men of high spirits, when injured in person, in property or character, are in haste to avenge themselves. They cannot be pleased with a religion, which requires them to suppress their resent-

ments, and commit their cause to a well regulated tribunal. And if they cannot be easily persuaded to wait until the judge shall declare what compensation they shall receive for the injuries, which they have suffered, it can hardly be supposed they will be willing to forgive their enemies, and pray for those, who have spoken evil of them, and persecuted them.

But the effects of this religion, although despised by the high-minded children of men, would be inexpressibly beneficial to mankind, were it universally received. This religion breathes nothing but peace and good will. The spirit of this religion is opposed to violence and strife, and every species of warfare, except that which is necessary to defence.

2. As the spirit of the christian religion is mild and gentle, those, who sincerely embrace this religion, will resemble their Lord and Master in their temper and conduct. "If it be possible, as much as lieth in them, they will live peaceably with all men." The true subjects of the Prince of Peace will be the last men on earth to blow the trumpet of war. They will never take the sword but in defence of rights highly important, and such as are essential to their safety and happiness. Men, therefore, who are in haste to make war, and are among the first to excite their brethren to deeds of violence and blood, are not true subjects of the Prince of Peace; but are in subjection to him, who first excited rebellion and war among the creatures of God.

3. It will follow, as a just inference from what has been said, that the practice of *retaliating injuries*, which has been too long tolerated, even in

christian countries, is contrary to the spirit of the gospel, and the express prohibition of Jesus, who came to teach the perfect will of the Father, both by word and by example. We need no farther evidence, than is found in the text, which we have been considering, to prove, that the Son of God will not allow the subjects of his government to retaliate injuries. "Ye have heard that it hath been said, an eye for an eye, and a tooth for a tooth; but I say unto you, that ye resist not evil."

Under the Jewish dispensation, a man who had been injured, and by an act of violence had lost an eye or a tooth, might not take satisfaction in his own way by inflicting a like injury. He must submit his cause to the judge, and, when the fact was proved, he might choose whether to receive compensation in money, or require, according to the phrase in common use, "eye for eye, and tooth for tooth." But this part of the law appears to have been done away by the prohibition in the text. The Son of God would not allow the subjects of his government to indulge a spirit of revenge: he would not permit his disciples to do what had been tolerated under the Jewish law.

4. If private christians may not retaliate injuries by rendering evil for evil, christian rulers are no doubt under the same restraint. Rulers of christian countries, of nations and kingdoms, where the christian religion is generally professed, ought to examine the subject, which we have been considering, with care, and be extremely cautious lest they offend the Son of God, by setting up a rule in the

infliction of punishment, contrary to his positive order.

When one nation, for no just cause, makes inroads on the rights of another, the injured nation may, no doubt, take up arms in its own defence. There is nothing, in the religion of the Prince of Peace, which forbids such kind of warfare. Our Lord let his disciples know the time might come, when they would need, and of consequence might make use of swords, and therefore gave the following direction, (Luke xxii) "He that hath no sword, let him sell his garment and buy one." But that kind of warfare, which is tolerated by the gospel, is altogether *defensive*, and is as different, as can be, from the warfare which is carried on by the sons of pride and ambition for purposes of conquest and fame. But if christian nations may take the sword, only in defence of their persons, their rights, and their country, when invaded, they are not permitted to retaliate, according to the common meaning of the term. If one nation invades another, and lays waste by fire and sword; and the injured nation, to retaliate its wrongs, invades in turn, and burns and destroys, the countries in which such savage warfare is prosecuted, must, in the end, be depopulated. This is the worst kind of warfare; it is the warfare of barbarians; and those, who begin it, in any country, deserve the execration of mankind, and will sooner or later meet the vengeance of heaven.

5. If it be contrary to the spirit of the gospel for christian rulers to carry on a war of retaliation against a *nation* which has made war upon them,

it will be plain, that christian rulers may not retaliate on innocent subjects of an enemy nation injuries, which the rulers of that enemy nation may have exercised on captives or other subjects, which such enemy nation may have in *his* power.

This is the most cruel sort of retaliation ever threatened by civilized man ; and happy is it for the world, that so many good men have remonstrated against it, that few, who have had it in their power, were sufficiently hard-hearted to execute what they have sometimes threatened. For *nation* to retaliate on *nation*, in open war, burning for burning, and devastation for devastation, is too bad for christian rulers to encourage, and is a kind of warfare, which one would suppose must make a barbarian shudder. But if such kind of warfare is too bad for any christian rulers to encourage, what must we think of the kind of retaliation which was last mentioned ? What must we think of the rulers of any nation, who, in cool blood, can take the innocent subjects of another nation, and put them to death, to retaliate the supposed wrongs, which that other nation may have committed ? What must all good men think of such retaliation ? I will not express my own thoughts, for I am not master of language strong enough, were I to make the attempt.*

You will recollect, that at the beginning of this discourse I observed,—“ It is not so much my intention to show what opinions moral writers, and writers on the law of nature and of nations have expressed concerning the doctrine of retaliation, as to show what appears to have been the mind of

* See Note A.

Christ, and what comports with the religion which he founded, and which we profess.”

If, on inquiry, we should find, that the *best* of those writers were in favour of the doctrine in question, and find, also, that Christ expressed himself strongly against it, we should think ourselves bound to submit to the authority of Christ, rather than to the authority of men, however learned and wise, and however much their opinions may have been respected ; and I am very much mistaken, if it has not been made to appear, that *retaliation*, as commonly understood, is directly contrary to the doctrine of Christ, and the spirit of his gospel.

We may, therefore, conclude, that were the Son of God now in the world, and to give his opinion on the subject, which we have been considering, it would be similar to that which he gave about eighteen hundred years ago. We may conceive that he would speak to a multitude convened to hear him, as he spake to his disciples and the multitude, seated at the foot of the mount. “ Ye have heard that it hath been said, by the expounders of your laws,—ye may retaliate the injuries, which ye suffer from one another in times of war,—ye may render evil for evil, burning for burning, devastation for devastation ; and, in some cases, ye may take away the lives of *innocent* subjects of an enemy nation, when such are in your power, to retaliate for wrongs done to your nation, or to the subjects of it ; but I say unto you, that ye resist not evil in any of those ways. If your enemies have acted like savages, take heed that ye do not as they have done. If your enemies have

been cruel in the treatment which they have showed to you or to your brethren, take heed that ye be not cruel also. If your enemy have shed the blood of prisoners and captives unjustly, take heed that ye be not guilty of the same abominable wickedness." In some such language, but in a manner infinitely more pointed and impressive, we may suppose, were the Son of God now on earth, he would give his opinion on the subject of retaliation! The mind of Christ is the same now that it was eighteen hundred years ago. He then abhorred injustice and cruelty, he now abhors them. He then forbade his disciples and those, who attended on his preaching, the retaliating of evils, and were he now in the world he would forbid the same thing.

I have now said what I proposed to say; and if it be made plain, that the mind of Christ, and the spirit of his religion be against the retaliation of injuries, as understood and practised by the men of the world, serious christians are bound, by the regard which they have for their Lord and Master, to bear their testimony against a practice so inhuman and cruel.

Let us now turn our eyes from the awful scenes, which a country presents, where war has raged, and where contending armies have retaliated injuries on each other. Let us turn from burning towns, from countries laid waste, women and children driven from the comforts, which the labours of the summer season had provided for them, and perishing in want.* Let us turn from an unrighteous, an unnecessary and ruinous war,† and pray, that he,

* See Note B.

† Note C.

who ruleth in the heavens, would have mercy upon us; that he, who loveth righteousness would protect and save us; and grant, that being delivered from our enemies, and from all, who in any ways obstruct our prosperity and happiness, we may serve the Lord without fear, in peace and "in holiness all the days of our life.'

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APPENDIX.

NOTE A. PAGE 13.

THE war between Great Britain and the United States of America seems to be taking a character, which threatens uncommon distress, not only to such as may be in actual service, but to the innocent subjects of both nations. When nations at war adopt a ruinous system of retaliation, and return not only slaughter for slaughter, but burning for burning, the war is no longer honourable, whatever the object at first may have been ; it assumes a savage character, and becomes a war of barbarians.

It is not for me to say, which of the present contending powers gave the first offence, and provoked the other to retaliate. The faithful historian will inform posterity, how the present war began, and how it has been conducted; who first set fire to towns and villages; to the houses of unoffending husbandmen; the huts of peasants, and of the natives of the wilderness.

But another, and it is believed quite a new kind of retaliation, has of late called up the publick attention, and threatens the last extreme of misery to such unhappy persons as may be held to suffer under it. I hope we shall give no offence, if we inquire, whether there be any law now in existence, by which the innocent subjects of any country may be seized, confined in prison, and put to death, because the government of their country has unjustly punished the subjects of the government thus retaliating? If there be any such law, where shall we find it? Perhaps among the laws of Draco, which we are informed "were written in letters of blood!" Those laws, however, were done away by Solon, a less *speculative*, but a much *wiser* and more *practical* legislator. We find something in the Roman laws of the twelve tables, concerning the retaliation of injuries, but what is there written does not apply to the doctrine now attempted to be established; it is almost verbatim from the law of Moses.

Writers on the law of nature and of nations hold, that injuries may, under certain circumstances, be retaliated; but the

exercise of such a law is so restricted, that it is believed no authority can be derived from the most approved of those writers, to support the principle, that the innocent subjects of any civilized nation may be seized and executed, because the government of that nation has been guilty of a very unjust and cruel action. The following passages from Vattel are much to our purpose: "When the war is with a *savage* nation, which observes no rules, and never gives quarter, it may be chastised in the persons of any seized or taken, they are among the guilty, that by this rigour they may be brought to conform to the laws of humanity. But whenever severity is not absolutely necessary, clemency is to be used. He, who has the most just cause to punish a *sovereign* as his enemy, will always incur the reproach of cruelty, should he cause the punishment to fall on the *innocent people!* Scipio's generosity is to be imitated. That great man having reduced some Spanish *princes*, who had revolted against the Romans, declared to them, that, on a breach of their faith, he would not call the *innocent hostages* to an account, but *themselves*. Alexander the Great having cause of complaint against Darius for some mal-practices sent him word, that if he continued to make war in such a manner, he would pursue him to the utmost, and give no quarter." "It is *thus* an enemy, violating the laws of war, is to be checked, and not by causing the penalty due to the crime to fall on *innocent victims*."

Puffendorf is equally mild and christian-like in what he says about retaliation: "In one of the laws of the Twelve Tables," says he, "it is instituted, that the man who breaks another's limbs, unless he can make his peace, and compound with him, shall suffer the like!" but adds, "it is plain from the *institute de injuriis*, that *retaliation* was grown out of use at Rome."

It may be well to inquire, and, if possible, to satisfy ourselves, whether or not there be any law of the United States, or of the commonwealth of Massachusetts, by which the innocent subjects of any country whatever, may be seized, imprisoned, and put to death, because the government of their country has, in the opinion of our government, unjustly confined and put to death, persons whom our government claims as subjects, and who are claimed also by the government, which so condemns and punishes them. And if there be no law in our free country, thus to condemn and put to death innocent persons, where is the judge who will pronounce the sentence of death? Where is the marshal who would venture to execute them?

As the doctrine of retaliation has of late excited great interest, I have endeavoured to ascertain the numbers of innocent *British* and *American* subjects, which have been seized, and held in confinement. See bottom of Note (B.)

OUR compassion has lately been called into painful exercise, by the sufferings of many innocent people, whose houses have been burnt, by what I fear will be found, a wanton exercise of military power on one side, and by retaliating vengeance on the other.

By quoting from a proclamation of the commander of the British forces in North America, I shall not be understood as acceding in the smallest degree to his reasoning; for I condemn the practice of retaliating injuries altogether, as immoral, and contrary to the command of Christ. I therefore quote the words of Lieut. General Provost, merely as reasons which he offers for a painful act of retaliation.

"The complete success which has attended his majesty's arms on the Niagara frontier having placed in our possession the whole of the enemy's posts on that line, it became a matter of imperious duty to retaliate on America the miseries, which the unfortunate inhabitants of Newark had been made to suffer upon the evacuation of Fort George.

"The villages of Lewistown, Black Rock, and Buffalo have accordingly been burned.

"At the same time that his excellency the commander of the forces sincerely deprecates this mode of warfare, he trusts that it will be sufficient to call the attention of every candid and impartial person, both amongst ourselves and the enemy, to the circumstances from which it has arisen, to satisfy them, that this departure from the established usages of war has originated with America herself, and to her alone are justly chargeable all the awful and unhappy consequences, which have hitherto flowed, and are likely to result from it."

From sources of the best information, the author of the preceding discourse is able to lay before the publick the following account of the proceedings of the American and the British governments on the system of retaliation which has lately been adopted. It appears, that

23 American prisoners were arrested, as British subjects, by the English government in Canada. That

23 British prisoners, in retaliation, were confined by the American government. That

46 Americans, in retaliation, were confined by the English government. That

46 British subjects, in retaliation, were confined by the American government. That, after this, orders were issued for the confinement of

92 American prisoners. "Seventy were actually confined at Halifax, on board the prison ship *Success*: that as soon as

a sufficient number of either government, privateer, or letter of marque prisoners should be taken, the number would be completed: that the officers and owners of the whale ships, which sailed before the declaration of war, would be exceptions, and on that account a part of the seventy had been released; but that the order was actually issued, and would be put into execution!"

NOTE C. PAGE 15.

If we may judge from what we experience, from what our eyes behold, and from the memorials of a suffering people, especially in the northern and eastern parts of the United States, we shall be bold to say, the present war, in which our country is engaged, is *unnecessary* and *ruinous*. We need no other evidence, than the objects continually before us, to prove, that the war, with its extraordinary accompaniments, has ruined our commerce; and if the prosperity of the eastern states depend on commerce, the ruin of commerce must be the ruin of this section of the union. The commerce of the American States, it is confessed, was greatly injured by the orders and decrees of the great European belligerents: it was still more injured by certain restrictive measures, such as a non-intercourse and embargo before the war. The living principle of commerce, however, remained after the war was declared, and, by a little attention, might have been preserved, and kept in action; but the late embargo act was like a fatal stroke of the palsy; it has destroyed all motion, and put a stop to the pulse of life.

Look at your harbour, and you will scarcely see a sail spread to the wind of your own canvass. Look at your ships, which ought to be employed in bringing wealth from every quarter of the world, perishing with the weather, and rotting in the docks. Look at your wharves, where you have been accustomed to behold enterprise and activity, now wholly forsaken, unless here and there a wanderer, to gaze at fallen greatness, and sigh for better times! Look every where, and your eyes will witness, that the war has hitherto been *ruinous*; and if *ruinous*, certainly *unnecessary*; for surely no people are bound to ruin themselves. And, in addition to the ruin of commerce, and the other calamities attending the war, a debt is accumulating upon us, beyond all example. Under the intolerable burden, our children and children's children will groan, and call each one to his fellow, "TELL US WHAT MIGHTY BOON WAS PURCHASED FOR US, AT SUCH VAST EXPENSE?"

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