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ARTICLE I.

## THE ASTRONOMICAL ARGUMENT AGAINST CHRISTIANITY.

The history of Christianity presents a scene of continual conflict. The ingenuity of man, and the malice of Satan, have been exhausted in assailing it by every form of opposition from without, by every mode of seduction from within. Its Divine Author predicted this when he said—"think not I am come to send peace on the earth; I came not to send peace, but a sword." The various modes of assault may be reduced to three classes—persecution, corruption, and the antagonism of science, falsely so called. Persecution, though reeking with the blood, and encompassed with the dead bodies of the saints, has ever proved to be the most harmless. Its attacks are open, and, therefore, may be more readily guarded against; its instrument is physical violence, and it is, therefore, unfitted to cope with moral courage and the spirit of devotion. Days of persecution have often been the most flourishing times in the Church. It was so during the ten devastations under the Roman Empire. It was so in the days of the Reformation. Corruption is the most dangerous form of attack, because it is the most insidious, and because it begins at once to prey on the

ARTICLE IV.

## MORALITY OF THE LEGAL PROFESSION.

The prominent influence which lawyers exert in the community, makes it a question of vital interest what are the ethical principles upon which the profession habitually regulate the performance of their professional duties. Their social standing is usually that of leaders, in every society. As a class, they are almost uniformly men of education; and their studies of the science of the law, (which is a great moral science,) with their converse with all conditions of men, and all sorts of secular transactions, give them an intelligence and knowledge of the human heart which cannot but make them leaders of opinion. It is from this class that the most of our legislators and rulers, and all our judicial officers, must be taken. They are the agents by whose hands nearly all the complicated transactions are managed, which involve secular rights, and interest the thoughts and moral judgments of men most warmly. But more; they are the stated and official expounders of those rights, and not the mere protectors of the possessions or material values about which our rights are concerned. In every district, town, or county of our land,—we may say with virtual accuracy, monthly, or yet more frequent, schools are held, in which the ethical doctrines governing man's conduct to his fellow man, are publicly and orally taught to the whole body of the citizens, with accessory circumstances, giving the liveliest possible interest, vividness and pungency, to the exposition. Ot these schools the lawyers are the teachers. Their lessons are presented, not in the abstract, like so many heard from the pulpit, but in the concrete, exemplified in cases which arouse the whole community to a living interest. Their lessons are endlessly varied, touching every human right and duty summed up in the second table of the law. They are usually intensely practical, and thus admit of an immediate and easy application. They are always delivered with animation, and often with an

impressive eloquence. It is therefore obvious, that this profession must have fearful influence in forming the moral opinions of the community. The concern which the country has in their professional integrity, and in their righteous and truthful exercise of these vast powers, is analogous to that which the Church has in the orthodoxy of her ministers. Nor are these influences of the legal profession limited to things secular; for the domains of morals and religion so intermingle, that the moral condition of a people, as to the duties of righteousness between man and man, greatly influences their state towards God. It may well be doubted, whether an acute and unprincipled bar does not do more to corrupt and ruin many communities than the pulpit does to sanctify and save them. These things at once justify the introduction of the topic into this Review, and challenge the attention of Christian lawyers and readers to its great importance.

In describing what is believed to be the prevalent (though not universal) theory and usage of the bar, we would by no means compose our description out of those base arts which are despised and repudiated as much by honorable lawyers as by all other honest men. There is no need to debate the morality or immorality of the various tricks; the subornation of witnesses; the bribing of jury-men; the falsification of evidence in its recital; the misquotation or garbling of authorities; the bullying of truthful and modest persons placed in the witness' stand by no choice of their own; the shaving of the claims of clients in advance of a verdict by their own counsel: by which some lawyers disgrace their fraternity. This class are beyond the reach of moral considerations; and, concerning their vile iniquity, all honest men are already agreed. Nor, on the other hand, can we take the principles of that honorable but small minority, as a fair examplar of the theory of the profession, who defend in the bar no act or doctrine which their consciences would not justify in the sight of God; and who say and do nothing officially which they would not maintain as private gentlemen. This class, we fear, are regarded by their own fraternity rather as the puritans of the profession. It is believed that the theory of the great mass of reputable lawyers

is about this: "That the advocate, in representing his client's interest, acts officially and not personally; and, therefore, has no business to entertain, even as an advocate, any opinion of the true merits of the case; for this is the function of the judge and jury; that the advocate's office, to perform which faithfully he is even sworn, is, to present his client's cause in the most favorable light which his skill and knowledge of law will enable him to throw around it; and that if this should be more favorable than truth and justice approve, this is no concern of his, but of the advocate of the opposite party, who has equal obligation and opportunity to correct the picture: that not the advocate himself, but the judge and jury who sit as umpires, are responsible for the righteousness of the final verdict. That according to the conception of the English law, a court is but a debating society, in which the advocates of plaintiffs and defendants are but the counterpoises, whose only function is the almost mechanical, or, at least, the merely intellectual one of pressing down each one his own scale, while an impartial judge holds the balance; that this artificial scheme is found by a sound experience to be—not, indeed, perfect—but on the whole the most accurate way to secure just verdicts in the main; and that this fact is the sufficient moral defence of the system."

Now, it is not our intention, in impugning the morality of this theory, to charge the profession with immorality and dishonor, as compared with other professions. While the bar exhibits, like all other classes, evidences of man's sinful nature, it deserves, and should receive, the credit of ranking among the foremost of secular classes, in honorable and generous traits. Lawyers may urge with much justice, that other professions habitually practise means of emolument strictly analogous to their official advocacy of a bad cause. The merchant, for instance, says all that he can say, truthfully, in commendation of his wares, and is silent concerning tbe *per-contras* of their defects. "To find out these," he says, "is the buyer's business." The farmer praises all the good points of the horse or the bullock he sells, and leaves the purchaser to detect the defects, if he can. It is not intended then to assert, that the

practice of this theory of the advocate's duty is more immoral than other things commonly supposed reputable in other callings. The question to be gravely considered is: whether the greater importance of the advocate's profession, as affecting not only pecuniary and personal rights, but the moral sentiments and virtues of the commonwealth, does not give a graver aspect to the errors of their theory of action. It is not that the bar is more immoral than commerce or agriculture; but that, if the bar acts on an immoral theory, it is so much more mischievous. Nor, again, is it asserted that the individual advocate is necessarily a vicious man, because the professional idea into which he is betrayed is a vicious one. It is not doubted that many men of social honor act out the idea of their office above described, who, if they were convinced of its error, would repudiate it conscientiously. It is not questioned that the professional intercourse of lawyers with each other is usually courteous, generous and fraternal, above most of the secular professions; that many magnanimous cases exist where peaceful counsels are given by them to angry litigants, so as to prevent controversies which would be extremely profitable to the advocates, if prosecuted; that there is no class of worldly men who usually respond more nobly to the claims of beneficence than lawyers; and that they deserve usually their social position in the front rank of the respectable classes. But, to recur to the truth already suggested, it should be remembered that their profession is not merely commercial or pecuniary in its concernments: it is intellectual and moral: it affects not only the interests but the virtues of the people: lawyers are their leaders and moral teachers. Therefore, they act under higher responsibilities than the mere man of dollars, and should be satisfied only by a higher and better standard. The merchant may, perhaps, lawfully determine his place of residence by regard to his profits: the preacher of the gospel may not; and should he do so, he would be held a recreant to his obligations. Why this difference? In like manner we may argue that should the lawyer act on a moral standard no higher than that of the mere reputable man of traffic, he would violate the obligations of his more responsible profession. But if this were not so, the

obvious remark remains, that, if all other secular professions act unscrupulously, this is no standard, and no justification for the bar: To "measure ourselves by ourselves, and compare ourselves among ourselves, is not wise." The only question with the answer to which true integrity will satisfy itself, is this: *whether the above theory of an advocate's functions is morally right.*

We shall begin a diffident and respectful attempt to prove that it is not, by questioning the accuracy of the plea of beneficial policy; in which it is asserted, that the administration of justice is, on the whole, better secured by this artificial structure of courts, than by any other means. We point to the present state of the administration of justice in our country; to the "glorious uncertainties of the law;" to the endless diversities and contradictions, not only of hired advocates of parties, but of dignified judges; to the impotence of penal law, and especially to the shameful and fearful license allowed among us to crimes of bloodshed; and ask, can this be a wholesome, a politic system, which bears such fruit? Is this the best judicial administration for which civilized, Christian, free nations may hope? Then, alas! for our future prospects! But it is notorious among enlightened men, that there are States, as for instance Denmark, Wurtemburg, Belgium and even France, where the general purposes of order, security and equal rights (not, indeed, as towards the sovereign, but between citizen and citizen) are far better obtained in practice than they are among us; and that, in some cases, without our boasted trial by jury. Our system, judged by its fruits, is not even politic: it is a practical nuisance to the State. It may be well doubted whether, in spite of all our boasted equal rights, the practical protection this day given to life, limb and estate, by the unmitigated military despotism of the Governor-General of Cuba, not to say by the tyrannical government of Louis Napoleon, is not, on the whole, more secure and prompt and equitable, than that now enjoyed in many of the United States. And the worst feature is, that as the legal profession has increased with the growth of the country, and gotten more and more control over legal transactions, these defects of judicial administration have

increased. It is urged in favor of this system of professional advocacy, that great practical injustice would frequently result from the inequality of knowledge, tact, fluency and talent in parties, if they did not enjoy the opportunity of employing counsel trained to the law, and exercising their office in the spirit we have described. It would often happen, it is said, that a rich, educated, skillful man, might contend with a poor, ignorant and foolish one; but, by resorting to counsel, all these differences are equalized. It may be justly asked, whether there are not inequalities in the skill and diligence of advocates, and whether the wealth which would give to the rich suitor so unjust an advantage over his poor adversary, if they pleaded their causes in person, does not, in fact, give an equally unjust advantage, in the numbers and ability of the counsel it enables him to secure, when those counsel are permitted to urge his cause beyond their own private convictions of its merits. We do not, of course, dream of any state of things in which professional advocates can be dispensed with wholly: minors, females, persons of feeble intellects, must have them in some form. But it is very doubtful whether as equitable results would not be reached in the main, were all other suitors, except the classes we have mentioned, obliged to appear *per se*, extreme as such a usage would be, as those reached under our present system. Cases are continually occurring, in which verdicts are obtained contrary to right, in virtue of inequalities in the members, reputation, talents, or zeal of opposing counsel, or of the untoward prejudices under which one party has to struggle. Especially is this assertion true of a multitude of cases in which the commonwealth is a party; for when this unscrupulous theory of an advocate's functions is adopted, it is universally found that the personal client on the one side is served with a different kind of zeal and perseverance from that exerted on the other side in behalf of that distant, imaginary, and vague personality, the State. This theory, therefore, probably does as much to create unfair inequalities as to correct them. And it usually happens that the advocate derives his warmth, his strongest arguments, and most telling points, from his conversations with the eager client, whom self-interest has impelled

to view the controversy with all the force of a thoroughly aroused mind; that, in a word, the client does more to make the speech effective than his counsel.

But we are disposed to attach comparatively little importance to these considerations. Policy is not the test of right, on which side soever the advantage may lie; and we have too much faith in the immutable laws of rectitude, and in the providence of a holy God over human affairs, to believe that a true expediency is ever to be found in that which is immoral. In the final issue, that which is right will always be found most expedient. If, therefore, the theory we oppose can be shown to be immoral, there will be no need to reply to the assertion of its expediency.

We remark, then, in the second place, that it is a presumptive reason against this theory of the lawyer's functions, that so constant a tendency is exhibited by individuals of the profession, to descend to a still lower grade of expedients and usages in the pursuit of success. While the honorable men of the profession stop at the species of advocacy we have defined, there is another part, a minority we would fain hope, who show a constant pressure towards practices less defensible. To that pressure some are ever yielding, by gradations almost insensible, until the worst men of the body reach those vile and shameless arts which are the *opprobrium* of the bar. It is greatly to be feared that this tendency downwards is manifesting itself more and more forcibly in our country as the numbers of the profession increase, and competition for subsistence becomes keener. Now, our argument is not so much in the fact that the profession is found to have dishonest members; for then the existence of quacks and patent medicines might prove the art of the physicians to be immoral; but in the fact the honorable part of the bar are utterly unable to draw any distinct and decisive line, compatibly with their principles, to separate themselves from the dishonorable. The fact to which we point is, then, that men who practise in their clients' behalf, almost every conceivable grade of art and argument unsustained by their own secret conscience, short of actual lying and bribery, consider themselves as acting legiti-

mately under the theory of the profession; and their more scrupulous brethren, who hold the same theory, cannot consistently deny their claim. If the advocate may go farther in the support of his client's case than his own honest judgment of its merits would bear him out; we ask, at what grade of sophistry must he stop? Where shall the line be drawn? If he may with propriety blink one principle of equity or law, in his behalf, may he not for a similar reason blink two? If he may adroitly and tacitly, but most effectively insinuate a sophistry in his favor, might he not just as well speak it boldly out? The *suppressio veri* not seldom amounts to a *suggestio falsi*. And if the duty to the client, with the constitution of the court, justify the insinuation or assertion of a sophistry, by what reason can it be shown that they will not justify the insinuation of a falsehood? A sophistry is a logical falsehood; and if he who offers it comprehends its unsoundness, we cannot see how he is less truly guilty of falsehood, than he who tells a lie. To speak falsehood is knowingly to frame and utter a proposition which is not true. He who knowingly urges a sophistical argument does in substance the same thing; he propagates, if he does not utter, a false proposition, namely, the conclusion of his false argument. But we may fairly press this reasoning yet further. No one will deny that when the advocate, as an advocate, suppresses truth, or insinuates a claim more than just to his client, or less than just to his adversary, any such act would be insincere, and therefore immoral, if it were done as an individual and private act. The circumstances which are supposed to justify it are, that he is not acting for himself but for another, not individually but officially; that there is an antagonist whose professional business it is to see that he gets no undue advantage for his client, and that the lawyer is not bound to form any private opinion whatever about the question, whether the advantages he is procuring for his client are righteous or not, that being the business of the judge and jury. These circumstances, it is claimed, make that professionally innocent which would otherwise be a positive sin. Why, then, may they not justify the commission of any other sin which would be profitable to

the client; and what limit would there be to the iniquities which professional fidelity might demand, provided only the client's case were bad enough to need them? If it is right, for his sake, "to make the worse appear the better cause," why not also falsify testimony, or garble authorities, or bribe jurors, or suborn perjurers, if necessary to victory? It would be hard to affix a consistent limit; for the greater urgency of the client's case would justify the greater sin. It is no answer to this to say, that the latter expedients would be wrong because the opposite party is entitled to expect that the controversy will be conducted with professional fairness, and that no advantage will be sought, which professional skill and knowledge may not be supposed able to detect and rebut if the party seeking it is not fairly entitled to it. For, according to the theory under discussion, this professional fairness is itself a conventional thing, and not the same with absolute righteousness; and any conduct which was conventionally recognized for the time being would come up to the definition. So that, the party secretly contemplating the employment of some of these vile expedients, would only have to notify his antagonist in general terms, to be on the look out for any imaginable trick, in order to render his particular trick professionally justifiable. And it is wholly delusive to urge that the advantage sought by one party is legitimate, because it is only such a one as the opposing party may be expected to detect and counteract by his skill, if competent for his professional duties, as he professes; for the reason why the given artifice called legitimate, is used in any case, is just this, that it is supposed the opposing party will not have skill enough to detect and counteract it. Its concealment from him is the sole ground for the hope of success in using it; and it is a mere evasion to say that it is such a legal artifice as the opponent's legal skill may reasonably be supposed competent to meet; when in that particular case, it is used for the very reason that it is believed his skill will not be competent to meet it. It is used because it is hoped that, it will remain as much undetected, and unanswered, as would the illegitimate tricks of falsification and bribery. We believe therefore that, if the advocate may

transgress the line of absolute truth and righteousness at all, in his client's behalf, there is no consistent stopping place. No limit can be consistently drawn; and the constant tendencies of a part of the profession with the various grades of license which different advocates, called reputable, allow themselves, indicate the justice of this objection.

We may properly add just here that, even if the theory we oppose were in itself moral, it might yet be a grave question, whether it is moral to subject one's self to a temptation so subtle and urgent, as that which allures the advocate to transgress the legitimate limit. The limit is confessedly a conventional one at any rate, and not absolutely coincident with what would be strict righteousness, if the person were acting individually and privately: it is separated from immoral artifices by no broad, permanent, consistent line; the gradation which leads down from the practices called reputable, to those allowedly base, is one composed of steps so slight as to be almost invisible; and the desire to conquer, so vehemently stimulated by the forensic competition, will almost surely seduce even the scrupulous conscience to transgress. No sinner has a right to subject his infirm and imperfect virtue to so deadly a trial.

In the third place, we respectfully object to the lawfulness of the attitudes in which this theory of the profession places the advocate. It claims that the court is but the debating society, in which the function of the two parties of lawyers is, not to decide the justice of the cause, (that being the function of judge and jury,) but to urge, each side, all that can be professionally urged in favor of its own client: and that out of this *exparte* struggle, impartially presided over by the listening umpire, there will usually proceed the most intelligent and equitable decision. But the fatal objection is: that even if the latter claim were true, we might "not do evil that good might come." And truth and right are a sacred thing, which carry an immediate, universal, inexorable obligation to every soul in every circumstance, if he deals with them at all, to deal with them according to their reality. Man is morally responsible for every act he performs which has moral character or conse-

quences; and no circumstance or subterfuge authorizes him to evade this bond. His maker will allow him to interpose no conventionality, no artificial plea of official position between him and his duty. Every act which has moral character, man performs personally, and under an immediate personal responsibility. The mere statement of this moral truth is sufficient to evince its justness: the conscience sees it by its own light. And it is obvious that unless God maintained his moral government over individuals in this immediate, personal way, he could not maintain it practically at all. Some form of organization might be devised to place men in a conventional, official position, in which every thing might be done which a sinful desire might crave, and thus every law of God might be evaded. In a word, whatever else a man may delegate by an artificial convention of law, he cannot delegate his responsibility; that is as inalienable as his identity. And it is equally impossible for man voluntarily and intelligently to assume the doing of a vicarious act, and leave the whole guilt of that act cleaving to his principal. His deed, in consenting to act vicariously is his personal, individual deed, lying immediately between him and his God; and if the deed has moral quality at all, it is his own personal morality or immorality.

Now, truth and right are concerned in every legal controversy. But these are things to which moral character essentially belongs. If a man speaks, he ought to speak truth—if he handles a right, he ought to handle it righteously. Lawyers seem to feel as though this conventional theory of the courts of law had no more moral quality attaching to it than the apparatus by which the centre of gravity of a ship is restored to the middle, as she leans to one side or the other. The honest sailor seizes the lever by which he moves his ponderous chest of cannon balls or chain cable, and when the sliding of some heavy part of the cargo in the hold, or the impulse of wind or wave causes the ship to lurch to the larboard, he shoves his counterpoise to the starboard side. He tells you that his object is, not to throw the ship on her beam ends, but to maintain a fair equilibrium, by going as much too far on the one side as the disturbing force had gone on the

other. And this is all right enough. The forces which he moves or counterbalances are dead, senseless, soulless, without responsibility. But it is altogether otherwise when we come to handle truth and right. For they are sacred things. They can in no case be touched without immediate moral obligation; and to pervert a truth or right on the one hand, in order that a similar perversion on the other hand may be counterbalanced, is sin, always and necessarily sin; it is the sin of meeting one wicked act by another wicked act, or, at best, of "doing evil that good may come." An attempt may be made at this point to evade this clear principle of morals by means of the confusion of thought produced by an appeal to a false analogy. Perhaps some such illustration as this may be presented: The soldier obeys his officer; he honestly, fairly and mercifully performs the tasks assigned him in his lawful profession, and yet sometimes takes life in battle. Now, suppose the war to which his commander leads him is an unrighteous war? All must admit that every death perpetrated by the unrighteous aggressor, in that war, is a murder in God's sight. But we justly conclude that this dreadful guilt all belongs to the wicked sovereign and legislature who declare the war, and not to the passive soldier who merely does his duty in obeying his commander." Hence, it is asserted, "the principle appears false; and there may be cases in which it is lawful for a man to do vicariously, or officially, what it would be wrong to do individually."

We reply that the general proposition thus deduced is one essentially different from the one which our principle denies. To say that a man may lawfully do some things vicariously or officially, which he may not do privately and individually, is a totally different thing from saying, that if an act would be immediately and necessarily wrong in itself, whenever and however done, the agent who does that act for another may still be innocent in doing it, because he acts for another. But the latter is the proposition which must be proved, in order to rebut our principles. We remark further upon the illustration above stated, that there are several fundamental differences between the case of the soldier and that of the advocate who

professionally defends his client's wrong-doing. One is, that the soldier, in the case supposed, has not volunteered of his own free choice to fight in this particular war which is unrighteous. If he has, then we can by no means exculpate him from a share in the guilt of all the murders which the wicked sovereign perpetrates in battle by his hand. It is only when the soldier is draughted into this service without his option, and compelled by the laws of his country, that we can exculpate him. But the advocate has chosen his own profession freely in the first instance, and he chooses each particular case which he advocates, with whatever injustice it may involve. For, whatever fidelity he may suppose his professional oath (perhaps thoughtlessly taken) compels him to exercise, in behalf of his unrighteous client, after he has made him his client, certainly he is not compelled to undertake his case at all unless he chooses. Another minor difference of the two cases is, that the soldier, not being a civilian by profession and habit, is competent to have very few thoughts or judgments about the abstract righteousness of the war to which his sovereign has sent him; whereas, it is the very trade and profession of the lawyer to investigate the righteousness or wrongfulness of transactions; so that if, indeed, he is aiding his client to perpetrate an injustice, he is the very man, of all others, who should be most distinctly aware of the wrong about to be done. But the chief and all sufficient difference of the two cases is: that all killing is not murder; but all utterance of that which is known to be not true, is lying. The work of slaying may, or may not, be rightful; the case where the lawful soldier, obeying his commander in slaying in battle, commits murder, is the exceptional case, (not indeed in frequency of occurrence perhaps; but in reference to the professed theory of legitimate government.) But to the rule of truth and right there is no exception: all known assertion of untruth is sin. How comes it that the profession of slaying as an agent for the temporal sovereign, as a soldier or sheriff, for instance, is in any case a righteous one? Only because there are cases in which the sovereign may himself righteously slay. And in those cases, it may be that this right to slay, which the sovereign himself possesses, may

be held properly by another person by delegation. But no man can delegate what he does not possess. The client cannot therefore delegate, in any case, to his lawyer, the function of making his wrong-doing appear right; because it would be in every case wrong for him to do it himself. And here we are brought to a point where we may see the utter absurdity of all the class of illustrations we are combatting. For, lawyers will themselves admit that if they acted individually and privately when they present pleas which, they are aware, are unjust, it would be sin. Their defence is that they do it officially. Well, then, if the client did it for himself, it would be sin: how can the lawyer, his agent, derive from him the right to do what he has himself no right to do? Or, will it be said that the official right of the advocate to act for a given client is not delegated to him from that client, but from the State which licensed him as an advocate? We think this is a doctrine which clients would be rather slow to admit. And again, the State is as utterly devoid as the client of all right to misrepresent truth and right. God has given to the civil magistrate the right to slay murderers and invaders; but he has given to no person nor commonwealth under heaven, the right to depart from the inexorable lines of truth and right.

This great truth brings us back to the doctrine of each man's direct and unavoidable responsibility to God, for all his acts possessing moral character or moral consequences. Now, in performing our duty, God requires us always to employ the best lights of reason and conscience he has given us, to find out for ourselves what is right. It is man's bounden duty to have an opinion of his own, concerning the lawfulness of every act he performs, which possesses any moral quality. God does not permit us to employ any man or body of men on earth as our conscience-keepers. How futile, then, is the evasion presented at this point by the advocates of the erroneous theory: "that the lawyer is not to be supposed to know the unrighteousness of his client's cause: that it is not his business to have any opinion about it; but, on the contrary, the peculiar business of the judge and jury: nay, that he is not entitled to have any opinion about it, and would be wrong if

he had, for the law presumes every man innocent till after he is proved wicked: and when the advocate performs his functions, no verdict has yet been pronounced by the only party authorized to pronounce one. The fatal weakness of this feeble sophistry is in this: that these assertions concerning the exclusive right of the judge and jury to decide the merits of the case, are only true as to one particular relation of the client. The judge and jury are the only party authorized to pronounce the client wrong or guilty, as concerns the privation of his life, liberty or property. It would, indeed, be most illegal and unjust, for lawyer or private citizen, to conclude his guilt in advance of judicial investigation, in the sense of proceeding thereupon to inflict that punishment which the magistrate alone is authorized to inflict. But this is all. If any private, personal right or duty of the private citizen, or of any one, is found to be dependent on the innocence or wickedness of that party before the court, it is a right and duty to proceed to form an opinion of his character, as correct as may be, by the light of our own consciences, in advance of judicial opinion or even in opposition to it. Yea, we cannot help doing so, if we try. Now, the question which the advocate has to ask himself as to an unrighteous client, is: "Shall I professionally defend his unrighteousness, or shall I not?" And that question involves an unavoidable duty, and constitutes a matter personal, private and immediate, between him and his God. In deciding that he will not lend his professional assistance to that man's unrighteousness, he decides a personal duty: he does not touch the bad man's franchises, nor anticipate his judicial sentence. Let us illustrate. Many years ago an advocate, distinguished for his eloquence and high social character, successfully defended a vile assassin, and by his tact, boldness and pathos, secured a verdict of acquittal. When the accused was released he descended into the crowd of the court house, to receive the congratulations of his degraded companions, and almost wild with elation, advanced to his advocate offering his hand with profuse expressions of admiration and gratitude. The dignified lawyer sternly joined his own hands behind his back and turned away, saying: "I touch no man's hand that is foul with

murder." But in what light did this advocate learn that this criminal was too base to be recognized as a fellow man? The court had pronounced him innocent! It was only by the light of his private judgment—a private judgment formed not only in advance of, but in the teeth of, the authorized verdict. Where now were all the quibbles by which this honorable gentleman had persuaded himself to lend his professional skill to protect, from a righteous doom, a wretch too vile to touch his hand? as that "the lawyer is not the judge: that he is not authorized to decide the merits of the case? Doubtless this lawyer's understanding spoke now, clearly enough, in some such terms as these: "My hand is my own, it is purely a personal question to myself whether I shall give it to this murderer; and in deciding that personal question, I have a right to be guided by my own personal opinion of him. In claiming this, I infringe no legal right to life, liberty, or possessions, which the constituted authorities have restored to him." But *was not his tongue his own*, in the same sense with his hand? Was not the question whether he could answer it to his God for having used his tongue to prevent the punishment of crime, as much a private, personal, individual matter, to be decided by his own private judgment, as the question whether he should shake hands with a felon? Let us suppose another case: a prominent advocate defends a man of doubtful character from the charge of fraud, and rescues him by his skill from his well deserved punishment. But now this scurvy fellow comes forward and claims familiar access to the society of the honorable lawyer's house, and aspires to the hand of his daughter in marriage. He immediately receives a significant hint that he is not considered worthy of either honor. But he replies: "You, Mr. Counsellor, told your conscience that it was altogether legitimate to defend my questionable transactions professionally, because the law did not constitute you the judge of the merits of the case, because the law says every man is to be presumed to be innocent till convicted of guilt by the constituted tribunal, and because you were not to be supposed to have any opinion about my guilt or innocence. Now, the constituted authorities have honorably acquitted me, (at your

advice!) I claim, therefore, that you shall act out your own theory, and practically treat me as an honorable man." We opine the honorable counsellor would soon see through his own sophistry, and reply that those principles only applied to his civic treatment of him as a citizen; that his house and his daughter were his own, and that he was entitled, yea, solemnly bound, in disposing of them, to exercise the best lights of his private judgment. So say we: and nothing can be so intimately personal and private, so exclusively between a man and his God, as his concern in the morality of his own acts. Since God holds every man immediately responsible for the way in which he deals with truth and right, whenever and in whatever capacity he deals with them, there can be no concern in which he is so much entitled and bound to decide for himself in the light of his own honest conscience. The advocate is bound, therefore, to form his own independent opinion, in God's fear, whether in assisting each applicant he will be assisting wrong, or asserting falsehood. This preliminary question he ought to consider, not professionally, but personally and ethically. Let every man rest assured that God's claims over his moral creatures are absolutely inevitable. He will not be cheated of satisfaction to his outraged law by the plea that the wrong was done professionally; and when the *lawyer* is suffering the righteous doom of his professional misdeeds, how will it fare with the *man?*

Our fourth consideration is but an extension and application of the great principle of personal responsibility which we have attempted to illustrate above. We would group together the practical wrongs which evolve in the operation of this artificial and immoral theory; we would invite our readers to look at their enormity, and to ask themselves whether it can be that these things are innocently done. Let the conscience speak; for its warm and immediate intuitions have a logic of their own, less likely to be misled by glaring sophistry than the speculations of the head. And here we would paint not so much the judicial wrongs directly inflicted by suitors unrighteously successful; for here the lawyer might seem not so directly responsible. We might, indeed, point to the case in

which plausible fraud succeeds in stripping the deserving, the widow, the orphan, of their substance, inflicting thus the ills of penury; or to that in which slander or violence is enabled to stab the peace of innocent hearts, undeterred by fear of righteous retribution; and ask the honest, unsophisticated mind, can he be innocent who, though not advising, nor perpetrating such wrongs in his individual capacity, has yet prostituted skill, experience, and perhaps eloquence, to aid the perpetrator? Can it be right? But we would speak rather of those evils which proceed directly from the advocate himself in his own professional doings. Here is a client who has insidiously won subtle advantages over his neighbor in business, until he has gorged himself with ill gotten gain. He applies to the reputable lawyer to protect him against the righteous demand of restitution. The lawyer undertakes his case, and thenceforth he thinks it his duty (not indeed to falsify evidence, or misquote law, or positively assert the innocence of injustice, but) to put the best face on questionable transactions which they will wear—to become the apologist of that which every honorable man repudiates. Now, we speak not of the wrongs of the despoiled neighbor; of these it may be said the client is the immediate agent. But there stands a crowd of eager, avaricious, grasping listeners, each one hungry for gain, and each one learning from this professional expounder of law, how to look a little more leniently on indirection and fraud; how to listen a little more complacently to the temptations before which his own feeble rectitude was tottering already; how to practise on his own conscience the deceit which "divides a hair between north and north-west side;" until the business morality of the country is widely corrupted. Can this be right? Can he be innocent who produces such results, for the selfish motive of a fee? But worse still; a multitude of crimes of violence are committed; and when their bloody perpetrators are brought before their country's bar, professional counsel fly to the rescue, and try their most potent arts. See them rise up before ignorant and bewildered juries, making appeals to weak compassion, till the high sentiment of retributive justice is almost ignored by one-half of the

community. Hear them advocate before eager crowds of heady young men, already far too prone to rash revenge, the attractive but devilish theory of "the code of honor:" or assert, in the teeth of God's law and man's, that the bitterness of the provocation may almost justify deliberate assassination; or paint, in graphic touches, which make the cheek of the young man tingle with the hot blood, the foul scorn and despite of an unavenged insult, until the mind of the youth in this land has forgotten that voice pronounced by law both human and divine, "vengeance is mine, I will repay;" and is infected with a dreadful code of retaliation and murder; until the course of justice has come to be regarded as so impotently uncertain, that the instincts of natural indignation against crime disdain to wait longer on its interposition, and introduce the terrific *regime* of private vengeance, or mob-law; and until the land is polluted with blood which cries to heaven from the earth. Can it be right that any set of men, in any function or attitude, should knowingly contribute to produce such a fatal disorganization of public sentiment; and that, too, for the sake of a fee, or of rescuing a guilty wretch from a righteous doom which he had plucked down on his own head? Can it be right? And now, will any man argue that God hath no principle of responsibility by which he can bring all the agents of such mischiefs as these into judgment? That such things as these can be wrought in the land, and yet the class of men who have in part produced them can, by a set of professional conventionalities, juggle themselves out of their responsibility for the dire result? Nay, verily: there is yet a God that judgeth in the earth. But if such a theory as the one we have discussed were right, while bearing such fruits, His government would be practically abdicated.

The fifth and last consideration is drawn from man's duty to himself. The highest duty which man owes to himself is to preserve and improve his own virtue. Our race is fallen, and the reason and conscience which are appointed for our inward guides are weakened and dimmed. But yet God places in our power a process of moral education by which they may be improved. The habit of acting rightly confirms their uncer-

tain decisions, and a thorough rectitude of intention and candor act as the "euphrasy and rue" which clarify our mental vision. How clear, then, the obligation to employ those high faculties in such a way that they shall not be perverted and sophisticated? There is no lesson of experience clearer than this, that the habit of advocating what is not thoroughly believed to be right, perverts the judgment and obfuscates the conscience, until they become unreliable. No prudent instructor would approve of the advocacy of what was supposed to be error by the pupils in a debating society. Such an association was formed by a circle of pious young men in the country; and once upon a time it was determined to debate the morality of the manufacture of ardent spirits. But it was found that all were of one mind in condemning it. So, to create some show of interest, one respectable young man consented to assume the defence of the calling "for argument's sake." The result was, that he unsettled his own convictions, and ultimately spent his life as a distiller, in spite of the grief and urgent expostulations of his friends, the censures of his church, and the uneasiness of a restless conscience. Nothing is better known by sensible men, than the fact that experienced lawyers, while they may be acute and plausible arguers, are unsafe judges, concerning the practical affairs of life. They are listened to with interest, but without confidence. Their ingenious orations pass for almost nothing, while the stammering and brief remarks of some unsophisticated farmer carry all the votes. The very plea by which advocates usually justify their zeal in behalf of clients seemingly unworthy of it, confesses the justice of these remarks. They say that they are not insincere in their advocacy, that they speak as they believe; because it almost always occurs that after becoming interested in a case, they become thoroughly convinced of the righteousness of their own client's cause. Indeed, not a few have said that no man is a good advocate who does not acquire the power of thus convincing himself. But there are two parties to each case. Are the counsel on both sides thus convinced of the justice of their own causes, when of course, at least, one must be wrong? Fatal power: to bring the imperial principles of

reason and conscience so under the dominion of self-interest and a factitious zeal, that in one-half the instances they go astray, and are unconscious of their error! It has been remarked of some men famous as politicians, who had spent their earlier years as advocates, that they were as capable of speaking well on the wrong side as on the right of public questions, and as likely to be found on the wrong side as on the right.

Now, it is a fearful thing to tamper thus with the faculties which are to regulate our moral existence, and decide our immortal state. It may not be done with impunity. Truth has her sanctities; and if she sees them dishonored, she will hide her vital beams from the eyes which delighted to see error dressed in her holy attributes, until the reprobate mind is given over to delusions, to believe lies. Were there no force in any thing which has preceded, duty to ourself would constitute a sufficient reason against the common theory of the advocate's office.

We conclude, therefore, that the only moral theory of the legal profession is that which makes conscience preside over every official word and act in precisely the same mode as over the private, individual life. It does not appear how the virtuous man can consistently go one inch farther, in the advocacy of a client's cause, than his own honest private judgment decides the judge and jury ought to go; or justify in the bar any thing which he would not candidly justify in his own private circle; or seek for any client any thing more than he in his soul believes righteousness demands. "Whatsoever is more than these, cometh of evil." It may be very true, that if all lawyers practised this higher theory, the numbers and business of the profession would be vastly abridged. If the fraudulent exactor could find no one to become the professional tool of unjust designs; if the guilty man, seeking to evade justice, were told by his advocate that his defence of him should consist of nothing but a watchful care that he had *no more than justice* meted out to him; it is possible clients would be few, and litigation rare. But is it certain that any good man would regret such a result? It might follow, also, that he who under-

took to practise the law on this Christian theory, would find that he had a narrow and arduous road along which to walk. We, at least, should not lament, should Christian young men conclude so. Then, perhaps, the holy claims of the Gospel Ministry might command the hearts of some who are now seduced by the attractions of this attractive but dangerous profession.

## THE SUPPORT OF SUPERANNUATED MINISTERS—AND THE INDIGENT FAMILIES OF DECEASED MINISTERS.

The Scriptural law, enforcing the duty of the Church to furnish an adequate support to the Christian Ministry, has recently been so fully discussed, and, not long since, so eloquently pressed before the Synod of South Carolina by one, who was never heard by it without respect, and, on that occasion, not without profound emotion, that it would be unnecessary now to advert to it, otherwise than as furnishing the principle upon which the subject of the present address is based. While, however, the general obligation to afford the Ministry a comfortable sustenance has been freely canvassed, the specific duty of supporting superannuated preachers of the Gospel, and the indigent families of deceased Ministers, has not been presented to the Church as fully as it might have been. It seems to have been tacitly assumed that, according to the commercial maxim of rendering an equivalent for value received, the preacher of the Gospel may only claim a subsistence during his actual term of service; and that when, from whatever cause he ceases to discharge the active functions of the Ministry, the obligation of the Church to sustain him comes to a corresponding close. A due regard to the Divine statutes touching this matter, to reason, and to the instincts of our nature, will, we apprehend, convince us that this principle is falsely applied in the case before us.

I. From the tenor of the enactments embodied in the Leviti-