

Communication to the City of Milwaukee Common Council's Public Safety and Health Committee

RE: File No. 180151: Resolution relative to acceptance and funding of the 2018 High-Intensity Drug Trafficking Area project awards.

From: Paul Mozina

Executive Summary:

The City of Milwaukee's approach to the opioid epidemic is incoherent: law enforcement treats controlled substance users as criminals while the Milwaukee City-County Heroin, Opioid and Cocaine Task Force wants to treat addiction as a disease. MPD says the City cannot arrest its way out of the problem but they continue to try and do just that. The Task Force says: "We now know that overdoses from prescription opioids are a driving factor in the 15-year increase in opioid overdose deaths.", and at the same time the DEA admits to the Task Force that they are aware that "their" physicians are: "**...over prescribing and not prescribing in a legitimate manner, that puts oxycodone and hydrocodone on the street. And we do have a lot of those.**" MPD's High Intensity Drug Trafficking Area (HIDTA) team heard the testimony and knows full well what is going on. But, it appears there is no local governmental entity with the will to engage the DEA on this matter, opioid epidemic notwithstanding

HIDTA's Annual Reports to Congress deceptively report *projected* outcomes rather than actual results. The efforts of the many government agencies, including the ONDCP's HIDTA program, involved in prosecuting the War On Drugs, have led directly to the introduction of dangerous synthetic opioids like fentanyl into the heroin/opioid market. As Ald. Murphy put it: "so you squeeze one side, something else comes in on the other side." and: "Cause, it seems like, **Human Nature** the way it is, if you don't have one addictive substance you'll figure out another way, and, of course, someone will figure out a way to supply you with it." HIDTA is the tip of the Drug War spear whose "Mission Impossible" is to coercively change **Human Nature** and deny people their fundamental right to control their own bodies and what they inoffensively possess and consume. Until the Common Council can develop a comprehensive and coherent plan for justly and humanely dealing with the fact that "**Human Nature**, the way it is", will *always* and *forever* result in people seeking their own happiness by freely choosing to possess and consume substances, it should stop supporting, funding and implementing programs like HITDA.

“It is not because men have made laws, that personality, liberty, and property exist. On the contrary, it is because personality, liberty, and property exist beforehand, that men make laws. **What, then, is law? As I have said elsewhere, it is the collective organization of the individual right to lawful defense.**

Nature, or rather God, has bestowed upon every one of us the right to defend his person, his liberty, and his property, since these are the three constituent or preserving elements of life; elements, each of which is rendered complete by the others, and that cannot be understood without them. For what are our faculties, but the extension of our personality? and what is property, but an extension of our faculties?

If every man has the right of defending, even by force, his person, his liberty, and his property, a number of men have the right to combine together to extend, to organize a common force to provide regularly for this defense.

Collective right, then, has its principle, its reason for existing, its lawfulness, in individual right; and the common force cannot rationally have any other end, or any other mission, than that of the isolated forces for which it is substituted. Thus, as the force of an individual cannot lawfully touch the person, the liberty, or the property of another individual—for the same reason, the common force cannot lawfully be used to destroy the person, the liberty, or the property of individuals or of classes.”

The Law, by Frédéric Bastiat (Appendix VII)

“VICES are those acts by which a man harms himself or his property. Crimes are those acts by which one man harms the person or property of another.

Vices are simply the errors which a man makes in his search after his own happiness. Unlike crimes, they imply no malice toward others, and no interference with their persons or property.

In vices, the very essence of crime—that is, the design to injure the person or property of another—is wanting.

It is a maxim of the law that there can be no crime without a criminal intent; that is, without the intent to invade the person or property of another. But no one ever practises a vice with any such criminal intent.

He practises his vice for his own happiness solely, and not from any malice toward others.

Unless this clear distinction between vices and crimes be made and recognized by the laws, there can be on earth no such thing as individual right, liberty, or property; no such things as the right of one man to the control of his own person and property, and the corresponding and co-equal rights of another man to the control of his own person and property.

For a government to declare a vice to be a crime, and to punish it as such, is an attempt to falsify the very nature of things. It is as absurd as it would be to declare truth to be falsehood, or falsehood truth.”

Vices are Not Crimes: A Vindication of Moral Liberty, By Lysander Spooner (Appendix VIII)

These are my principles and the reason I am here today to persuade you that the Common Council should decline the HIDTA Grant Award and not adopt File No. 180151. I am unequivocally against the War On Drugs. It has utterly failed to fulfill its illegitimate mission and has wasted billions of dollars and destroyed countless lives in the process. The arbitrary prohibition of certain controlled substances by The State is a bald usurpation of our inherent individual freedom to inoffensively possess and consume any substance we choose. When, where, and how did this freedom become a privilege to be granted or withheld at the whim of legislators? In the case of alcohol, The State at least had the honesty to let the people decide – not so with controlled substances.

HIDTA manifests all of the worst aspects of the Drug War as we shall soon see. I became aware of HIDTA at the July 21, 2017 meeting of the Milwaukee City-County Heroin, Opioid and Cocaine Task Force during Alderman Murphy's questioning of Captain Alex Ramirez and Lieutenant Shaun Doyne – both with the MPD Narcotics Division - HIDTA. (video of meeting http://milwaukee.granicus.com/MediaPlayer.php?view_id=2&clip_id=1410&met relevant section starts around 1:07:30). Alderman Murphy's top concern was fentanyl and Captain Ramirez explained that it's a better high, a better product than heroin, which results in users "Chasing the Dragon" to experience again that initial euphoric rush. Dealers are advertising that their product is a "hot load" that contains fentanyl

Alderman Murphy described how a \$2,000 investment in fentanyl could yield a return of \$200,000 and he asked what efforts HIDTA was making to interdict fentanyl. Lieutenant Doyne responded with an explanation of how it is produced in China and imported via the southern border, mostly through Mexico. The reality is fentanyl can be produced anywhere and imported into the country from anywhere. The introduction of synthetic opioids like fentanyl into the market is a direct result of the efforts to prohibit heroin and opioid use. Within the next 5 years you can expect to see many new variations of synthetic opioids that are more easily produced, more powerful and more profitable – there is no way to stop it now.

Captain Ramirez described how they can report on trends and he summarized their strategy as "we go after them". Alderman Murphy offered more resources but neither Ramirez or Doyne have taken him up on that – at least nothing has been reported back to the Task Force. And, as far as I know, the Task Force did not request any additional reports from Captain Ramirez, at least none were discussed at any other meetings. And, per Chief Morales, the Task Force did not invite anyone from MPD to be a permanent member.

When Alderman Murphy asked about mobile pharmacies (people with cell phones who drive around and sell controlled substances), Lieutenant Doyne misunderstood his question and began discussing the Prescription Drug Monitoring Program (PDMP) and the discussion turned to the fact that reducing prescriptions, or "pill shopping" would likely drive more addicts to get their fix on the street. And as prescription opioids become harder to get, the price of pills will go up making heroin and fentanyl more attractive. As Ald. Murphy put it: "so you squeeze one side, something else comes in on the other side."

With the PDMP on the table, Alderman Rainey noticed Ms. Kathy Federico, a 28-year DEA veteran – currently Diversion Control Division Supervisor – and invited her to come up. Her whistle-blowing testimony was stunning:

“...And you did talk about some of the administrative proceedings that we can take against **our physicians that are over prescribing and not prescribing in a legitimate manner**, that puts oxycodone and hydrocodone on the street. **And we do have a lot of those.**

And I mean the other issue we have is, is having ahh — prosecutions — **of physicians that are pumping pills on the street without people having legitimate medical problems.** And that’s an issue we address **all the time** because nobody wants to put a doctor behind — in jail.

...You talk about the PDMP and having this big impact. The PDMP has been out there for a long time and we had some impact initially when it started. I don’t know exactly what issue you want me to address but some of the PDMP issues, is, yes, it’s very true that the doctors is going to have to check, it’s going to be mandatory, **but there are no consequences if the doctors do not check.** And we have a lot of the doctors that are not looking at the PDMP...”

You might ask: Why HIDTA isn’t targeting the DEA for sanctioning the ongoing illegal distribution of opioids via **their** physicians that are “pumping pills on the street”? Could it be because physicians have the resources to defend themselves and that the DEA simply cannot afford to criminally prosecute them? Is that why according to the DEA’s Criminal Cases Against Doctors website: https://www.deadiversion.usdoj.gov/crim_admin_actions/index.html, there were only 2 cases in the last 4 years reported in Wisconsin?

After the meeting I began researching HIDTA in earnest and was especially dumbfounded that no one on the Task Force, or HIDTA or the District Attorney’s office was doing anything in response to Ms. Federico’s admissions. I sent emails to the Task Force and letters to the Mayor, all the Alders on the Common Council, the County Executive, all the County Supervisors and all the major media outlets alerting them of the problem, and here we are, 10 months after learning about it and what has changed? Alderman Murphy is trying to get someone from the DEA to respond to what Ms. Federico said, but, I don’t see any sense of urgency from the City, County, MPD or HIDTA to stop these **“physicians that are pumping pills on the street without people having legitimate medical problems”**, despite the mounting overdose death toll.

So, what is wrong with HIDTA? One of Ald. Murphy’s closing comments at the July 21 meeting was telling: “So it really reinforces the need for education to stop people from even beginning. And working on that angle. Cause, it seems like, **human nature the way it is**, if you don’t have one addictive substance you’ll figure out another way, and, of course, someone will figure out a way to supply you with it. So trying to break the chain is really the big issue.” HIDTA is the tip

of the government's spear in the Drug War, and as useless as a spear is in modern warfare, so is futile any attempt by The State to fight human nature. And they know it. The minutes of the very first Task Force meeting summarize comments from MPD Captain Caballero as: 'Police representatives speaking today are continually on the front line of the overdoses that occur in the City. Law enforcement has realized that the County and City cannot arrest itself out of the problem.' Captain Ramirez testified at the same meeting that 'The epidemic is a medical health problem'. At the December 1, 2017 Task Force meeting Lieutenant Doyne reiterated the point that the City cannot arrest its way out of the problem.

When I noticed that the HIDTA Grant Award (Appendix I) indicated that Research & Evaluation were N/A, I started digging and, via a FOIA request, I got the HIDTA ANNUAL REPORT TO CONGRESS for FY 2011-2017. Please see appendices II-IV for the Wisconsin Individual HIDTA reports for 2017, 2016 and 2015. The 2017 report begins by defining the terms used to measure the "success" of the program. Notice the definition of YEAR: "The numbers provided in the respective categories reflect the *projected* performance targets by each HIDTA for 2016 and not *actual* results from 2016. Individual HIDTAs are not required to submit 2016 results until June 2017." Imagine explaining at your annual review that you **project**, or think, or hope, you will complete projects A, B and C – and being evaluated on your projections year after year.

Then there is the Target Return on Investment: Assets, and Target Return on Investment: Drugs. The return on assets is: "the ratio between the value of cash and non-cash assets seized and the amount of HIDTA funds budgeted for all activities other than treatment, prevention, and/or research and development." And the return on Drugs is: "the ratio between the wholesale value of drugs seized and the amount of HIDTA funds budgeted for all activities other than treatment, prevention, and/or research and development." It's as if HIDTA were just another investment traded on the stock exchange. Sadly, with the fentanyl market booming, HIDTA's across the country are going to see their ROIs increase. The Wisconsin HIDTA is adding 5 counties from Minnesota and rebranding itself as the North Central HIDTA – maybe NOW is the time to invest? How will the recently passed Wisconsin Act 211 <https://docs.legis.wisconsin.gov/2017/related/acts/211> affect revenues from asset forfeitures??

Per the HIDTA-Program-Effectiveness-2016 report (<http://www.hidtadirectors.org/pdf/HIDTA-Program-Effectiveness-2016.pdf>)

In 2016 HIDTA's also seized \$547 million in cash, a total that more than doubled the amount of Federal funds appropriated for the Program. Since 2010, HIDTAs have seized more than \$5 billion in cash alone from traffickers. HIDTAs also seized \$153 million in other property from traffickers in 2016

The combined value of the illegal drugs seized and the cash and assets taken from traffickers equates to a return on investment (ROI) of \$75.34 for every HIDTA \$1 budgeted in 2016, excluding funding for treatment and prevention.

What's not to like about a government program that not only pays for itself, but returns \$75 for every \$1 invested? And, 50% of the revenue goes to the school fund! Maybe we should convert all government programs that aren't dedicated to the military-security industrial complex to fighting the drug war; we could pay down the national debt! Professing to want to treat addiction as a disease while persisting in criminalizing those affected, is incoherent. Implementing an enforcement regime that profits from prosecuting diseased people, while it uses the proceeds to perpetuate its own existence and fund the schools is absurd.

The Drug Trafficking Organizations, or DTOs expected to be Disrupted/Dismantled is another measure of "success". I grew up during the Vietnam War and this metric reminds me of the body counts of Vietcong and North Vietnamese Army soldiers that were used to measure "success" and justify the continuation of that hopeless war. The numbers were meaningless, and not only because they were manipulated and ignored collateral civilian casualties, but because they gave no real indication as to the strength and determination of the enemy. In the case of HIDTA, the enemy, as Ald. Murphy pointed out, is Human Nature. Is it right for The State, which claims to derive its authority from the people to make endless war on Human Nature, Human Beings – The People? Does The State have to Destroy Human Nature to save it? And one need look no further than Black Imprisonment <http://www4.uwm.edu/eti/2013/BlackImprisonment.pdf> to see the racially disproportionate collateral damage effected by the Drug War.

The Wisconsin HIDTA Annual Report to Congress for 2017 (appendix II) says regarding actual results that : "In 2015, the Wisconsin HIDTA dismantled or disrupted 27 DTOs.", while the 2016 Report (appendix III) *projected* that in 2015, 48 DTO's would be dismantled or disrupted. The Report for 2016 says that in 2014, 35 DTO's were actually dismantled or disrupted, while the 2015 Report (appendix IV) *projected* that 59 DTO's would be dismantled or disrupted. We can see substantial differences between **actual** and *projected* results: 2015: **27-48** and 2014: **35-59**.

You don't have to be an economics professor to see that the efforts of law enforcement to restrict the supply of controlled substances has simply caused the suppliers and consumers to seek new products and arrangements. This is clearly manifested by the emergence of fentanyl into the marketplace. As described above, it is a "better" high than heroin, it is cheaper for consumers and more profitable for suppliers, and, worst of all, it is easily available. There is no way short of opening and inspecting every single package that enters the United States, or that is shipped between individuals in the states, to possibly stop the wide-spread distribution of fentanyl. Captain Cabellero, Captain Ramirez, Lieutenant Doyne and probably everyone working at the MPD Narcotics Division knows that The State cannot win the war against Human Nature by arresting people – yet these same people continue to build their careers and earn their livings based on the false premise that the Drug War is winnable. The police and sheriffs are the tip of the prohibition spear. Milwaukee City and County Government are the point of the spear and State and Federal Governments form the spear itself. Unfortunately for the Human Beings in minority communities the spear is, and has been for a long time, pointed predominantly at them – with devastating consequences.

Drug prohibition has led directly to the introduction of fentanyl into the heroin/opioid market and is the main factor driving overdose deaths right now. Prohibition promotes competition to supply the controlled substances which leads to crime and violence. Prohibition causes prices to rise leading to more property crimes by addicts seeking to fund their habits.

Prohibition fosters a very dangerous marketplace where suppliers and consumers are under constant threat of violence. Prohibition results in the distribution of adulterated substances which make consumption much more dangerous. Government agencies like the DEA, ONDCP and programs like HIDTA that are attempting to enforce prohibition are making the problem worse, and that is a measurement that they do not track in their goals and strategies.

The Government Accountability Office has been looking closely at the Office of National Drug Control Policy and its flagship program , HIDTA. Below are summaries of its findings from 2013 to 2017. The goals referenced are from the 2010 National Drug Control Strategy <https://obamawhitehouse.archives.gov/sites/default/files/ondcp/policy-and-research/ndcs2010.pdf>:

1. Strengthen Efforts to Prevent Drug Use in Our Communities
2. Seek Early Intervention Opportunities in Health Care
3. Integrate Treatment for Substance Use Disorders into Health Care, and Expand Support for Recovery
4. Break the Cycle of Drug Use, Crime, Delinquency, and Incarceration
5. Disrupt Domestic Drug Trafficking and Production
6. Strengthen International Partnerships
7. Improve Information Systems for Analysis, Assessment, and Local Management

GAO 2013 Report <https://www.gao.gov/products/GAO-13-333>

Office Could Better Identify Opportunities to Increase Program Coordination

The Office of National Drug Control Policy (ONDCP) and federal agencies have not made progress toward achieving most of the goals articulated in the 2010 National Drug Control Strategy (the Strategy), but are reported to be on track to implement most Strategy action items intended to support these goals. ONDCP established seven Strategy goals related to reducing illicit drug use and its consequences by 2015. As of March 2013, GAO's analysis showed that of the five goals for which primary data on results are available, one shows progress and four show no progress. For example, no progress has been made on reducing drug use among 12- to 17-year-olds by 15 percent. This is primarily due to an increase in the rate of reported marijuana use, offset by decreases in the rates of reported use of other drugs. Nevertheless, ONDCP reported that 107 of the 112 action items in the Strategy are complete or on track. ONDCP officials stated that implementing these action items is necessary but may not be sufficient to achieve Strategy goals.

GAO 2015 Report <https://www.gao.gov/products/GAO-16-257T>

Lack of Progress on Achieving National Strategy Goals

GAO reported in March 2013 that the Office of National Drug Control Policy (ONDCP) and other agencies had not made progress toward achieving most of the goals in the 2010 National Drug Control Strategy (the Strategy) and ONDCP had established a new mechanism to monitor and assess progress. In the Strategy, ONDCP established seven goals related to reducing illicit drug use and its consequences to be achieved by 2015. As of March 2013, GAO's analysis showed that of the five goals for which primary data on results were available, one showed progress and four showed no progress. GAO also reported that ONDCP established a new monitoring system intended to provide information on progress toward Strategy goals and help identify performance gaps and options for improvement. At that time, the system was still in its early stages, and GAO reported that it could help increase accountability for improving progress. In November 2015, ONDCP issued its annual Strategy and performance report, which assess progress toward all seven goals. The Strategy shows progress in achieving one goal, no progress on three goals, and mixed progress on the other three goals. Overall, none of the goals in the Strategy have been fully achieved.

GAO 2016 Report <https://www.gao.gov/products/GAO-16-660T>

Progress toward Some National Drug Control Strategy Goals, but None Have Been Fully Achieved

The Office of National Drug Control Policy (ONDCP) and federal agencies have made mixed progress toward achieving the goals articulated in the 2010 National Drug Control Strategy (Strategy) and ONDCP has established a mechanism to monitor and assess progress. In the Strategy, ONDCP established seven goals related to reducing illicit drug use and its consequences by 2015. As of May 2016, our analysis indicates that ONDCP and federal agencies have made moderate progress toward achieving one goal, limited progress on three goals, and no progress on the three other three goals. Overall, none of the goals in the Strategy have been fully achieved. In March 2013, GAO reported that ONDCP established the Performance Reporting System to monitor and assess progress toward meeting Strategy goals and objectives. GAO reported that the system's 26 new performance measures were generally consistent with attributes of effective performance management. A 2015 ONDCP report on progress towards these measures similarly identified some progress towards overall achievements—some of the measures had met or exceeded targets, some had significant progress underway, and some had limited or no progress.

GAO 2017 Report <https://www.gao.gov/products/GAO-17-766T>

Information on Status of Federal Efforts and Key Issues for Preventing Illicit Drug Use

GAO reported in March 2013 that the Office of National Drug Control Policy (ONDCP) and other agencies had not made progress toward achieving most of the goals in the 2010 National Drug Control Strategy (the Strategy) and ONDCP had established a new

mechanism to monitor and assess progress. In the Strategy, ONDCP established seven goals related to reducing illicit drug use and its consequences to be achieved by 2015. As of March 2013, GAO's analysis showed that of the five goals for which primary data on results were available, one showed progress and four showed no progress. GAO also reported that ONDCP established a new monitoring system intended to provide information on progress toward Strategy goals and help identify performance gaps and options for improvement. At that time, the system was still in its early stages, and GAO reported that it could help increase accountability for improving progress. In November 2015, ONDCP issued its annual Strategy and performance report, which assess progress toward all seven goals. The Strategy shows progress in achieving one goal, no progress on three goals, and mixed progress on the other three goals. Overall, none of the goals in the Strategy have been fully achieved.

Despite HIDTA's awesome ROIs, the many DTOs disrupted or dismantled, and the number of requests for analytical support, ***the program is a failure***, and necessarily so, because its "Mission Impossible" is to change Human Nature and conform it to the arbitrary whims of the legislators vis-à-vis their designation of "controlled substances".

If the Common Council is determined to continue the failed status quo Drug War policies, then, at a minimum, it should at least consider requiring HIDTA to report directly to the Council on the following items going back to the beginning of the program:

- What are the demographics of people prosecuted by HIDTA?
- How many times were targeted individual's property confiscated prior to conviction and how many times was that property returned? Whose property was confiscated?
- How many times were innocent people ensnared? How many times were people only peripherally involved i.e., "knowingly knowing" pressured to "cope a plea" to try to save themselves? How many families with children were affected?
- How many actions initiated under HIDTA resulted in physical injury to any persons? Who are these people?
- What is the role of confidential informants in HIDTA's strategy? How often are they utilized? What relation do these informants have to the targets? How often do informants trade leniency in their own cases for assistance prosecuting others?
- How much of the revenue from the Equitable Sharing (asset forfeiture) program deposited in Justice and Treasury Funds comes from HIDTA? Whose assets are being seized and under what conditions? Why was the "Civil Rights Cases" section of the "Equitable Sharing Agreement and Certification Annual Report" removed beginning with the 2014 report? (see appendices V and VI) Have there been any civil rights cases brought against MPD since 2014? If yes, were any cases related to HIDTA activities?
- Why has MPD and its HIDTA group done nothing about the physicians that are illegally prescribing opioids and pumping pills on the street? Are the City, MPD and HIDTA powerless to compel the DEA to enforce its own rules against "their" physicians?
- HIDTA should report on the harms its programs and actions are causing as well as on its "successes". Would the synthetic opioid Genie have been conjured out of the Bottle if HIDTA and the other Drug War Warriors had not been rubbing it so vigorously?

At a minimum, contact James Bohn, Director of the North Central HIDTA, and demand that the current strategy be adjusted to force the DEA to stop “*their*” physicians from “illegally pumping pills on the street”. And request that the North Central HIDTA join in the recently established Heroin Response Strategy established by the ONDCP www.hidta.org/wp-content/uploads/2017/07/HRS-Annual-report-5.2.17_final.docx.

File no. 180151, which is before the Public Safety and Health Committee now <https://milwaukee.legistar.com/LegislationDetail.aspx?ID=3498314&GUID=AB54D4F0-B18B-4A54-968F-12FDA32573C0>

requires the City of Milwaukee to contribute over \$2,000,000 to match the grant. It is Orwellian double-speak to call this unfunded mandate an “award”. Do not adopt this file – reject it! Use the 2 million as a down payment on the Collins Settlement (File No. 180105). Stop supporting the HIDTA infrastructure at MPD. This hidden cost is absorbed in the general expense of MPD, particularly in the I.T. department. Does anyone know how much it costs MPD to maintain the HIDTA-operated Case Explorer, SAFENet or Investigative Support Center systems? The grant covers only ¼ of the personnel costs associated with it, and, meanwhile the City picks up the full cost of the HIDTA infrastructure support within MPD.

Say NO! to the unfunded HIDTA Drug War mandate, euphemistically referred to as an “award”. Say NO! the City of Milwaukee will no longer be the point of the state and federal Drug War spear. Say NO! the City of Milwaukee will no longer put its police force at the tip of the Drug War spear. Say NO! the City of Milwaukee will no longer point the Drug War spear at its own people, especially its minority communities.

Grant Award Summary

High Intensity Drug Trafficking Area (HIDTA) Project 2018

TBD

PREVIOUS COUNCIL FILE NO:

170026

Grant Type: Grant Continuation; Special Revenue-Grant and Aid Projects

Grantor: Office of National Drug Control Policy (ONDCP)

Grant Period: January 1, 2018—December 31, 2019

Award Amount: \$2,548,122 (\$509,818 from grantor, \$2,038,304 from City)

Match Required: \$509,818 (20%) would be provided by the grantor and \$2,038,304 (80%) would be provided by the City

Fiscal Agent: Milwaukee Police Department (MPD)

MPD Sub-Awardee: MPD Narcotics Division

Allocation Purpose: This continuing grant will support initiatives designed to implement the strategy proposed by the Executive Board of the Wisconsin HIDTA and approved by the Office of National Drug Control Policy (ONDCP), and will partially fund salaries and overtime expenses for Police Officers, Detectives, and a Lieutenant, who will be dispersed among the Fugitive Task Force, Heroin Task Force, Interdiction, Investigative Support, and Drug Gang Task Force.

Partners:

- **Federal:** Bureau of Alcohol, Tobacco and Firearms, Drug Enforcement Administration, Federal Bureau of Investigation, United States Attorney's Office - Eastern District of Wisconsin, and the United States Customs Service.
- **State:** Wisconsin Division of Narcotic Enforcement and the Wisconsin National Guard.
- **Local:** Milwaukee County District Attorney's Office and the Milwaukee County Sheriff's Office. Milwaukee Police Department, and West Allis Police Department.

Research & Evaluation: N/A

Program Goals

The Milwaukee HIDTA's mission is to apply enhanced intelligence processes and greater operational coordination and prosecution to reduce organized drug distribution, drug related violent crime and money laundering, and the demand for illegal drugs within the Milwaukee HIDTA. The Milwaukee HIDTA also strives to halt the distribution of illegal drugs to urban areas throughout Wisconsin and beyond. The goal of this grant is to continue the allocation of financial resources to MPD personnel assigned to five HIDTA task forces, including Interdiction, Investigation, Heroin, Fugitive Task Force, and Drug Gang Task Force. This leads to increased cooperation and coordination between law enforcement agencies and partners through joint investigations of drug traffickers to reduce the prevalence and demand for illegal narcotics in the City of Milwaukee.

Programmatic Summary

Over the past several years, there has been an increase in heroin consumption and the distribution of opiates in the City of Milwaukee. In addition, overdose deaths associated with opioids has increased dramatically in Milwaukee County. Crack cocaine and marijuana remain persistent drug threats, as drug traffickers and organized street gangs have developed distribution systems for delivery to users across the State. Milwaukee HIDTA focuses on reducing violent crime by dismantling and disrupting drug networks and organizations that operate in the State of Wisconsin.

Grant Award Summary

High Intensity Drug Trafficking Area (HIDTA) Project 2018

Data Summary

Table I displays drug arrests by the Milwaukee Police Department from January 1-December 31, 2012-2017. Arrests for possession with intent to deliver and manufacture/delivery of heroin increased 95% from 2012 (138) to 2017 (269). In addition, cocaine arrests increased 32% from 2016 (624) to 2017 (821).

Table I. Cocaine & Heroin Arrests by the Milwaukee Police Department

Drug Type	2012	2013	2014	2015	2016	2017	16-17 % Change	12-17% Change
Cocaine	778	593	564	560	624	821	32%	6%
Heroin	138	120	151	198	217	269	24%	95%
Total	916	713	715	758	841	1,090	30%	19%

The data counts arrests by drug type for time of January 1 – December 31, 2012-2017. Totals may not sum since an individual may be arrested for more than one charge and/or charge type. Heroin arrests are inclusive of possession with intent to deliver and manufacturing and delivery. Possession of heroin falls under the scope of a Schedule I narcotic and cannot be determined.

Individual HIDTA Reports

To address the specific reporting requirements, individual HIDTA reports are provided below. These reports are succinct descriptions of the individual HDTAs and their responses to the Congressional reporting requirements. Data contained in the following regional HIDTA summaries have been developed and submitted by each HIDTA. Any questions regarding the data should be referred to the respective HDTAs. For a more comprehensive look at any particular HIDTA's performance in addressing specific drug threats, ONDCP will provide an annual report, strategy, or threat assessment upon request. Each of the individual HIDTA reports contains the following sections:

Purpose and Goals

Per the reporting requirement in Sec. 707(k)(2)(A) of the HIDTA program authorizing legislation, this section highlights the specific purpose and mission for the HIDTA.

Strategy

Per the reporting requirement in Sec. 707(k)(2)(B) of the HIDTA program authorizing legislation, this section highlights the specific long-term goals and objectives for the HIDTA.

Location

This section identifies the geographical location of the HIDTA, including the HIDTA-designated counties in its area of responsibility (AOR).

Initiatives

This section highlights the types and numbers of initiatives in the HIDTA. Initiatives are considered activities that implement portions of the HIDTA's strategy, as opposed to an organization of activities or investigative efforts.

Short-Term Objectives

Per the reporting requirement in Sec. 707(k)(2)(B) of the HIDTA program authorizing legislation, this section highlights the specific short-term goals and objectives for the HIDTA. These are presented as follows:

YEAR	DTOs Expected to be Disrupted/Dismantled	Target Return on Investment: Assets	Target Return on Investment: Drugs	Number of Investigations Expected to be Provided Analytical Support

Year: The numbers provided in the respective categories reflect the *projected* performance targets by each HIDTA for 2016 and not *actual* results from 2016. Individual HDTAs are not required to submit 2016 results until June 2017.

DTOs Expected to be Disrupted/Dismantled: A DTO is an organization consisting of five or more persons: (1) that has a clearly defined chain-of-command; and (2) whose principal activity is to generate income or acquire assets through a continuing series of illegal drug production, manufacturing, importation, transportation, or distribution activities. An organization is "dismantled" when its leadership, financial base, and supply network are incapable of operating

and/or reconstituting themselves. An organization is “disrupted” when the normal and effective operation of the organization is impeded, as indicated by changes in organizational leadership and/or changes in methods of financing, transportation, distribution, communications, or drug production. There is no precise way to calculate or measure whether a DTO/MLO is disrupted. This is a subjective assessment made by the case agent or initiative supervisor.

Target Return on Investment - Assets: Return on Investment (ROI) for assets is the ratio between the value of cash and non-cash assets seized and the amount of HIDTA funds budgeted for all activities other than treatment, prevention, and/or research and development.

Target Return on Investment - Drugs: ROI for drugs is the ratio between the wholesale value of drugs seized and the amount of HIDTA funds budgeted for all activities other than treatment, prevention, and/or research and development.

Number of Investigations Expected to be Provided Analytical Support: Analytical support means services an analyst provides to support an investigation, such as Crime Pattern Analysis (showing information relating to a series of crimes), Financial Analysis (showing connections between bank accounts and individuals or entities), Association/Link/Network Analysis (showing relationships or connections among people and organizations involved in a criminal activity), and Commodity Flow Analysis (showing the flow of goods, currency, or services relating to a criminal act, among people, organizations, or businesses).

Threat Assessment

As required by Sec. 707(m)(2) of the HIDTA program authorizing legislation, this section highlights the drug threat in the HIDTA region. While each HIDTA provides an in-depth threat assessment annually, this section includes a short overview of the drug trends and threats in the HIDTA region. These assessments are developed through cooperation among Federal, state, local, and tribal law enforcement.

Intelligence Initiatives

As required by Sec. 707(m) of the HIDTA program authorizing legislation, this section identifies the HIDTA Intelligence Initiatives in its region. Each HIDTA must have at least one intelligence and information sharing initiative that is responsible for developing information and intelligence collection requirements and for collecting, evaluating, collating, analyzing, and disseminating law enforcement information and intelligence for the HIDTA program. These initiatives are required to have participants from Federal *and* state, local, or tribal agencies.

Task Forces Operating in the HIDTA Region

As required by Sec. 707(l) of the HIDTA program authorizing legislation, this section includes a list of Federal, state, local, and tribal drug enforcement task forces operating in the HIDTA region and their locations.

Task Force Coordination

As required by Sec. 707(l) of the HIDTA program authorizing legislation, this section describes how task forces coordinate with each other; the steps taken to share information among task forces; the role of the HIDTA in coordinating information sharing; the extent of current cooperation among participants; the extent of information sharing with JTTFs; and any recommendations for ensuring effective and efficient use of task force resources.

HIDTA Evaluation

As required by Sec. 707(k)(2)(B) of the HIDTA program authorizing legislation, ONDCP provides an evaluation of the performance of each HIDTA in accomplishing its goals and objectives. It should be noted that the number of DTOs disrupted or dismantled is affected by developing cases, varying levels of DTOs, national and international scope of investigations, differing levels of sophistication and size of DTOs, and the ability to acquire resources. Performance data included in this section is provided by the HIDTA in its annual report and in the PMP database.

2017 Wisconsin HIDTA – Designated in 1998

Executive Director – James Bohn

Purpose and Goals

The mission of the Wisconsin HIDTA is to substantially reduce drug trafficking activity and related violence through enhanced intelligence processes, coordinated law enforcement, prosecutions, and demand reduction efforts. The goals are to reduce drug availability by disrupting and dismantling DTOs, diminish the harmful consequences of drug trafficking, and improve the efficiency and effectiveness of the region's law enforcement organizations.

Strategy

The Wisconsin HIDTA's strategy is to foster cooperative and effective relationships among the 26 Federal, state, and local participating member agencies to achieve the common goals of disrupting and dismantling DTOs and reducing the demand for drugs. Through Wisconsin HIDTA's enforcement initiatives, working within the seven-member counties, investigative emphasis is placed on the targeting of DTOs that pose the most significant threats, primarily those with ties to the southwest and northern borders (multi-state and international in scope). In addition, particular emphasis is placed on violent DTOs and drug traffickers that pose significant risk to the community, especially those engaged in violent criminal acts, firearm offenses, or those that traffic significant supplies of heroin to the region. In line with the HIDTA goals, the initiatives work cooperatively and share information with other HIDTAs and law enforcement agencies throughout the country to further enhance effective investigations. As described below, and in assessing the threats that face the Wisconsin HIDTA region, the Executive Board directs and adjusts its strategy to reduce the most significant threats and create safer communities. In 2016, five newly designated counties around the Minneapolis-St. Paul, Minnesota area were added to the umbrella of the Wisconsin HIDTA. The strategy moving forward is to integrate any newly formed initiatives from the recently designated Minnesota counties to address the threats to their region, as well as coordinate intelligence and information sharing with this enhanced partnership.

The Wisconsin HIDTA strategy also recognizes the need for strong demand reduction efforts in the community. The mission is to reduce violent crime through targeted law enforcement, community building, and proactive engagement of youth in activities that increase positive social skills and behaviors and teach resistance to drugs, gangs, guns, and other criminal behavior.

Location

The Wisconsin HIDTA collocates numerous initiatives within its main facility in Milwaukee, including several enforcement initiatives, a prosecution initiative, an intelligence initiative, and a prevention initiative. Several other enforcement initiatives operate within the HIDTA-designated counties outside of Milwaukee County, including Waukesha, Kenosha, Racine, Rock, Dane, and Brown counties. In addition, the newly designated counties around the Minneapolis-St. Paul, Minnesota area will now also be added to the umbrella of the Wisconsin HIDTA.

Initiatives

Presently, the Wisconsin HIDTA has 13 initiatives: 1 management, 1 training, 1 information technology support, 1 prevention, 1 prosecution, 1 intelligence, and 7

investigation/interdiction initiatives. It is anticipated that additional enforcement and intelligence initiatives will be added from the Minnesota region beginning in 2017.

Short-Term Objectives

YEAR	DTOs Expected to be Disrupted/ Dismantled	Target Return on Investment: Assets	Target Return on Investment: Drugs	Number of Cases Expected to be Provided Analytical Support
2016	44	\$1.31	\$2.92	998

Threat Assessment

Wisconsin, specifically the metropolitan areas of Milwaukee and Madison serve as a midpoint and a destination area for drug trafficking operations. These metropolitan areas are positioned along the I-90/I-94 corridor and are in close proximity to the major drug markets of Minneapolis and Chicago. Because of these factors, the Wisconsin HIDTA region is vulnerable to DTOs that establish their presence for drug trafficking activities.

Heroin continues to present the greatest threat to the current Wisconsin HIDTA region. Overdose deaths and other harmful effects resulting from the use of heroin continue to pose significant problems for the community. Closely associated with the heroin threat is the misuse of prescription medications, especially opioids such as oxycodone. Reports from law enforcement officials and substance use treatment providers clearly demonstrate a strong correlation between pharmaceutical misuse and heroin use. In addition, other opiate synthetics such as fentanyl and counterfeit pills are increasing the risk to the area.

Marijuana continues to remain the most commonly used illicit drug in the Wisconsin HIDTA region. The demand for higher potency marijuana products has increased significantly over the past few years and continues to present a serious issue within the region. Much of this demand is met by source suppliers and DTOs from the West Coast and Pacific Northwest. Continued concerns related to the distribution of high grade marijuana is the violent criminal activity and use of firearms by traffickers and users. Much of the violence can be traced to the large profits that are associated with the distribution of this drug.

Cocaine powder and crack cocaine continue to have a presence in the Wisconsin HIDTA region. Law enforcement continues to report that violent criminal activities are often tied to cocaine distribution.

Methamphetamine demand and distribution has emerged as a threat in the state as law enforcement has seen higher levels of availability and consumption. A strong link has been associated with source suppliers from the Minneapolis-St. Paul area of Minnesota.

Intelligence Initiatives

The Wisconsin HIDTA ISC provides a full range of analytical products and expertise to assist and support law enforcement investigations. The ISC employs a group of specially trained criminal intelligence analysts that includes civilian employees, supplemented with support from the Wisconsin National Guard and various Federal agencies. The ISC maintains a Watch Center that assists law enforcement with specific requests for information and facilitates event and target deconfliction for law enforcement via the Case Explorer system. In addition, the ISC shares

information within the intelligence environment, including the Wisconsin State Information Center in Madison and the FBI JTTF in Milwaukee, as appropriate. In addition, the Wisconsin HIDTA ISC was recognized as the national “Outstanding HIDTA Investigative Support Center” for 2015.

The ISC supports complex counterdrug investigations by utilizing expertise in areas of communications analysis and database research to provide investigative leads for investigators. The ISC continues to provide extensive analysis of heroin-related overdose deaths in the region and assistance for investigators to identify priority targets. The Wisconsin HIDTA ISC continues to add innovative analytical products and training to further enhance the ability to support investigations.

Task Forces Operating in the HIDTA Region

The table below highlights the federally funded drug enforcement task forces operating in the Wisconsin HIDTA region. Multiple HIDTA task forces may make up an overarching HIDTA enforcement or investigative initiative.

FEDERALLY FUNDED TASK FORCES	LOCATIONS
DEA Task Force for Southern WI (DEA)	Southeastern Wisconsin
Northeastern Drug Task Force (HIDTA) Includes Brown County MEG	Brown County
South Central Drug Task Force (HIDTA) Includes Dane County MEG	Rock and Dane Counties
Southeastern Drug Task Force (HIDTA) - Includes MEG Units from Waukesha, Racine, Kenosha	Waukesha, Racine and Kenosha Counties
Greater Racine Gang Task Force (FBI)	Kenosha County
Gang-Rock County Safe Streets Task Force (FBI)	Madison County
Drug Gang Task Force (HIDTA)	Wisconsin/HIDTA region
Milwaukee Metropolitan Enforcement Group (MMEG) co-located at HIDTA	Milwaukee County
Heroin Initiative (HIDTA)	Wisconsin/HIDTA region
Interdiction Initiative (HIDTA)	Wisconsin/HIDTA region
Fugitive Task Force (HIDTA)	Throughout Southeast WI

Task Force Coordination

Four Wisconsin HIDTA investigative/enforcement initiatives are collocated in the HIDTA facility in Milwaukee. In addition to these initiatives, the Milwaukee Metropolitan Enforcement Group (MMEG) and the FBI’s Human Trafficking Task Force are collocated with the HIDTA, but operate under their own policies. The MMEG is responsible for mid- to upper level drug investigations in Milwaukee County. Six additional investigative/enforcement initiatives are based in the northeast, south central, and southeast regions of Wisconsin, within the designated counties of Kenosha, Racine, Waukesha, Rock, Dane, and Brown.

Each of the enforcement initiatives is dedicated to its described mission, not only with respect to the regional areas of responsibility, but also as it relates to the particular threats the initiative may identify and target. For instance, as a response to the ever-increasing threat caused by heroin and prescription opioids in the region, the Heroin Initiative was created and approved

by the executive board early in 2012. This initiative continues to develop its expertise and has added several additional investigators from local and Federal agencies to target the most significant DTOs responsible for heroin trafficking in the region. Likewise, all enforcement initiatives listed above look to reduce the threats of violence, drug trafficking, and drug use within the HIDTA region.

The Wisconsin HIDTA Executive Board is composed of representatives of all 26 member agencies and is committed to an impact-driven strategy. This strategy emphasizes full cooperation and information sharing efforts, which ultimately lead to well-coordinated, efficient operations. HIDTA Board members participate on three subcommittees (Finance, Intelligence, and Initiatives) to provide guidance and oversight on all aspects of the program. Regular information sharing meetings are also held with supervisors of all enforcement initiatives to further the HIDTA mission. Moving forward in 2017, the makeup of the Executive Board will change with the inclusion of representatives of Minnesota.

Coordination of all investigative information is accomplished through the HIDTA ISC and through the use of a common automated case management system (Automated Criminal Investigation Secure System) operated by the state of Wisconsin DOJ, Division of Criminal Investigation. Criminal Intelligence Analysts from the HIDTA regularly meet with each of the task forces to gather and share information.

HIDTA Evaluation

In 2015, the Wisconsin HIDTA dismantled or disrupted 27 DTOs. Of the 27 DTOs dismantled or disrupted, 1 was international in scope, 9 were multi-state, and 17 were mainly local. The Wisconsin HIDTA initiatives seized illegal drugs with a total estimated wholesale value of over \$13.4 million and \$2.0 million in cash and assets, a total ROI of \$3.25 for each HIDTA dollar expended on enforcement. The ISC provided analytical support to 903 investigations and processed 2,440 event and 6,336 case/target deconflictions. The Wisconsin HIDTA also provided 24,475 hours of training to 1,935 students.

2016 Wisconsin HIDTA – Designated in 1998

Executive Director – James Bohn

Purpose and Goals

The mission of the Wisconsin HIDTA is to substantially reduce drug-related activity through enhanced intelligence processes and coordinated law enforcement, prosecution, and demand reduction efforts. The goals are to reduce drug availability by disrupting and dismantling DTOs, diminish the harmful consequences of drug trafficking, and improve the efficiency and effectiveness of the region's law enforcement organizations.

Strategy

The Wisconsin HIDTA's strategy is to continue working to foster cooperative and effective relationships among the 28 Federal, state, and local participating member agencies to achieve the common goals of disrupting and dismantling DTOs and reducing the demand for drugs. Through Wisconsin HIDTA's enforcement initiatives, working within the seven member counties, investigative emphasis is placed on the targeting of DTOs that pose the most significant threats, primarily those with ties to the southwest and northern borders (multi-state and international in scope). In addition, particular emphasis is placed on violent DTOs and drug traffickers that pose significant risk to the community, especially those engaged in violent criminal acts, firearm offenses, or those that traffic significant supplies of heroin to the region. In line with the HIDTA goals, the initiatives work cooperatively and share information with other HIDTAs and law enforcement agencies throughout the country to further enhance effective investigations. As described below, and in assessing the threats that face the Wisconsin HIDTA region, the Executive Board directs and adjusts its strategy to reduce the most significant threats and create safer communities.

The Wisconsin HIDTA strategy also recognizes the need for strong demand reduction efforts in the community. The mission is to reduce violent crime, through targeted law enforcement, community building, and proactive engagement of youth in activities that increase pro-social skills and behaviors, and to teach resistance to drug, gang, gun, and other criminal activities.

Location

The Wisconsin HIDTA collocates numerous initiatives within its main facility in Milwaukee, including several enforcement initiatives, its intelligence initiative, and the prevention initiative. Several other enforcement initiatives operate within the other counties that are HIDTA-designated, including Waukesha, Kenosha, Racine, Rock, Dane, and Brown counties.

Initiatives

The Wisconsin HIDTA has 13 initiatives: 1 management, 1 training, 1 information technology support, 1 prevention, 1 prosecution, 1 intelligence, and 7 investigation/interdiction initiatives.

Short-Term Objectives

YEAR	DTOs Expected to be Disrupted/ Dismantled	Target Return on Investment: Assets	Target Return on Investment: Drugs	Number of Cases Expected to be Provided Analytical Support	Number of Initiative Leads Expected to be Referred
2015	48	\$1.71	\$2.69	1,040	1,221

Threat Assessment

Wisconsin, specifically the metropolitan areas of Milwaukee and Madison, are prone to serving as a midpoint and a destination area for drug trafficking operations. These metropolitan areas are positioned along the I-90/I-94 corridor and are in close proximity to the major drug markets of Minneapolis and Chicago. Because of these factors, the Wisconsin HIDTA region is vulnerable to DTOs that establish their presence for drug trafficking activities.

Heroin presents the greatest threat to the Wisconsin HIDTA seven-county region. Overdose deaths and other harmful effects resulting from the use of heroin continue to pose significant problems for the community. Closely associated with the heroin threat is the misuse of prescription medications, especially opioids such as oxycodone. Reports from law enforcement officials and substance use treatment providers clearly demonstrate a strong correlation between pharmaceutical misuse and heroin use.

Marijuana continues to remain the most commonly used illicit drug in the Wisconsin HIDTA region. The demand for higher potency marijuana products has increased significantly over the past few years and continues to present a serious issue within the region. Much of this demand is met by source suppliers and DTOs from the West Coast and Pacific Northwest. In addition, outdoor local growing operations from around the state and elaborate indoor hydroponic sites are increasingly being encountered by law enforcement. An additional concern related to the distribution of high grade marijuana is the increase of violent criminal activity and use of firearms by traffickers and users. Much of the violence can be traced to the large profits that are associated with the distribution of this drug.

Cocaine powder and crack cocaine continue to have a presence in the Wisconsin HIDTA region. Law enforcement continues to report that violent criminal activities are often tied to cocaine distribution.

Methamphetamine distribution has emerged as a threat in the state as law enforcement has seen higher levels of availability and consumption. Early indicators reveal the source area to be the SWB region, which then makes its way into Wisconsin via sources based in the greater Minneapolis area.

Intelligence Initiatives

The Wisconsin HIDTA Investigative Support Center (ISC) provides a full range of analytical products and expertise to assist and support law enforcement investigations. The ISC employs a group of specially trained criminal intelligence analysts that includes civilian employees, supplemented with support from the Wisconsin National Guard and various Federal agencies. The ISC maintains a Watch Center that assists law enforcement with specific requests for information and facilitates event and target deconfliction for law enforcement via the Case Explorer system. In addition, the ISC shares information within the intelligence environment,

including the Wisconsin State Information Center in Madison and the Southeast Terrorism Alert Center and FBI JTTF in Milwaukee, as appropriate. The Wisconsin HIDTA ISC was recently recognized as the national “HIDTA Outstanding Investigative Support Center” for 2015.

The ISC supports complex counterdrug investigations by utilizing expertise in areas of communications analysis and database research to provide investigative leads for investigators. The ISC continues to provide extensive analysis of heroin-related overdose deaths in the region and assistance for investigators to identify priority targets.

Task Forces Operating in the HIDTA Region

The table below highlights the Federally funded drug enforcement task forces operating in the Wisconsin HIDTA region. Multiple HIDTA task forces may make up an overarching HIDTA enforcement or investigative initiative.

FEDERALLY FUNDED TASK FORCES	LOCATIONS
DEA Task Force for Southern WI (DEA)	Southeastern Wisconsin
Northeastern Drug Task Force (HIDTA) Includes Brown County MEG	Brown County
South Central Drug Task Force (HIDTA) Includes Dane County MEG	Rock and Dane Counties
Southeastern Drug Task Force (HIDTA) - Includes MEG Units from Waukesha, Racine, Kenosha	Waukesha, Racine and Kenosha Counties
Greater Racine Gang Task Force (FBI)	Kenosha County
Gang-Rock County Safe Streets Task Force (FBI)	Madison County
Drug Gang Task Force (HIDTA)	Wisconsin/HIDTA Region
Milwaukee Metropolitan Enforcement Group (MMEG) co-located at HIDTA	Milwaukee County
Heroin Initiative (HIDTA)	Wisconsin/HIDTA Region
Interdiction Initiative (HIDTA)	Wisconsin/HIDTA Region
Fugitive Task Force (HIDTA)	Throughout Southeast WI

Task Force Coordination

Four Wisconsin HIDTA investigative/enforcement initiatives are collocated in the HIDTA facility in Milwaukee. In addition to these initiatives, the Milwaukee Metropolitan Enforcement Group (MMEG) and the FBI’s Human Trafficking Task Force (HTTF) are collocated with the HIDTA, but operate under their own policies. The MMEG is responsible for smaller to mid-level drug investigations in Milwaukee County. Five additional investigative/enforcement initiatives are based within the northeast, south central, and southeast regions of Wisconsin.

Each of the enforcement initiatives are dedicated to its described mission, not only with respect to the regional areas of responsibility, but also to the particular threats the initiative targets. For instance, as a response to the ever-increasing threat caused by heroin and prescription opioids in the region, the Heroin Initiative was created and approved by the Executive Board early in 2012. Likewise, all enforcement initiatives listed above look to reduce the threats of violence, drug trafficking, and drug use within the HIDTA region.

The Wisconsin HIDTA Executive Board is composed of representatives of all 28 member agencies and is committed to an impact-driven strategy. This strategy emphasizes full cooperation and information sharing efforts, which ultimately lead to well-coordinated, efficient operations. HIDTA Board members participate on three subcommittees (Finance, Intelligence, and Initiatives) to provide guidance and oversight on all aspects of the program. Regular information sharing meetings are also held with supervisors of all enforcement initiatives to further the HIDTA mission.

Coordination of all investigative information is accomplished through the HIDTA ISC and through the use of a common automated case management system (Automated Criminal Investigation Secure System – ACISS) operated by the state of Wisconsin Department of Justice, Division of Criminal Investigation. Criminal Intelligence Analysts from the HIDTA regularly meet with each of the task forces to gather and share information.

HIDTA Evaluation

In 2014, the Wisconsin HIDTA dismantled or disrupted 35 DTOs. Of the 35 DTOs dismantled or disrupted, 3 were international, 8 multi-state, and 24 local. The Wisconsin HIDTA initiatives seized illegal drugs with a total estimated wholesale value of over \$16.9 million and \$4.7 million in cash and assets (over \$21.6 million total), for a total ROI of \$4.62. Marijuana accounted for 51% of the drugs seized. The ISC provided analytical support to 1,008 cases, referred 1,146 case leads to other HIDTAs or agencies, and processed 2,469 event and case deconflictions. The Wisconsin HIDTA provided 25,391 hours of training to 1,495 students.

2015 Wisconsin HIDTA – Designated in 1998

Acting Director – Mark Mathy

Purpose and Goals

The mission of the Wisconsin HIDTA is to substantially reduce drug-related activity through enhanced intelligence processes and coordinated law enforcement, prosecution, and demand reduction efforts. The goals are to reduce drug availability by disrupting and dismantling DTOs, diminish the harmful consequences of drug trafficking, and improve the efficiency and effectiveness of the region's law enforcement organizations.

Strategy

The Wisconsin HIDTA's strategy is to continue working to foster cooperative and effective relationships among the 25 Federal, state, and local participating member agencies to achieve the common goals of disrupting and dismantling DTOs and reducing the demand for drugs. Through Wisconsin HIDTA's enforcement initiatives, working within the seven member counties, investigative emphasis is placed on the targeting of DTOs that pose the most significant threats, primarily those with ties to the Southwest and Northern borders (multi-state and international in scope). In addition, particular emphasis is placed on violent DTOs and drug traffickers that pose significant risk to the community, especially those engaged in violent criminal acts, firearm offenses, or those that traffic significant supplies of heroin to the region. In line with the HIDTA goals, the initiatives work cooperatively and share information with other HIDTAs and law enforcement agencies throughout the country to further enhance effective investigations. As described below, and in assessing the threats that face the Wisconsin HIDTA region, the Executive Board directs and adjusts its strategy to reduce the most significant threats and create safer communities.

The Wisconsin HIDTA strategy also recognizes the need for strong demand reduction efforts in the community. The Safe & Sound prevention initiative is an integral part of the Wisconsin HIDTA's prevention strategy. The mission is to reduce violent crime through targeted law enforcement, community-building, and proactive engagement of youth in activities that increase pro-social skills and behaviors, and to teach resistance to drug, gang, gun, and other criminal activities.

Location

The Wisconsin HIDTA co-locates within its facility several enforcement initiatives, an intelligence initiative, and prevention initiatives in Milwaukee, Wisconsin. Several other enforcement initiatives operate within the other counties that are HIDTA-designated, including Waukesha, Kenosha, Racine, Rock, Dane, and Brown counties.

Initiatives

The Wisconsin HIDTA has 13 initiatives: 1 management, 1 training, 1 information technology support, 1 prevention, 1 prosecution, 1 intelligence, and 7 investigation/interdiction initiatives.

Short-Term Objectives

YEAR	DTOs Expected to be Disrupted/ Dismantled	Target Return on Investment: Assets	Target Return on Investment: Drugs	Number of Cases Expected to be Provided Analytical Support	Number of Initiative Leads Expected to be Referred
2014	59	\$1.76	\$3.17	1,061	947

Threat Assessment

Wisconsin, specifically the metropolitan areas of Milwaukee and Madison, are prone to serving as a midpoint and a destination area for drug trafficking operations. These metropolitan areas are positioned along the I-90/I-94 corridor and are in close proximity to the major drug markets of Minneapolis and Chicago. Because of these factors, the Wisconsin HIDTA region is vulnerable to DTOs that establish their presence for drug trafficking activities.

Heroin presents the greatest threat to the Wisconsin HIDTA seven-county region. Overdose deaths and other harmful effects resulting from the use of heroin continue to pose significant problems for the community. Closely associated with the heroin threat is the abuse of prescription medications, especially opioids such as OxyContin. Reports from law enforcement officials and substance use treatment providers clearly demonstrate a strong correlation between pharmaceutical abuse and heroin use.

Marijuana continues to remain the most commonly used illicit drug in the Wisconsin HIDTA region. The demand for higher potency marijuana products has increased significantly over the past couple of years and continues to present a serious issue within the region. Much of this demand is met by source suppliers and DTOs from the West Coast and Pacific Northwest. In addition, outdoor local growing operations from around the state and elaborate indoor hydroponic sites are increasingly being encountered by law enforcement. An additional concern related to the distribution of high grade marijuana is the increase of violent criminal activity and use of firearms by traffickers and users. Much of the violence can be traced to the large profits that are associated with the distribution of this drug.

Cocaine powder and crack cocaine continue to have a presence in the Wisconsin HIDTA region, and a slight increase in the threat has been observed in 2014. An increase in cocaine-related overdose deaths has occurred within the past year, and law enforcement continues to report that violent criminal activities are often tied to cocaine distribution.

Intelligence Initiatives

The Wisconsin HIDTA ISC provides a full range of analytical products and expertise to assist and support law enforcement investigations. The ISC employs a group of specially trained criminal intelligence analysts that includes civilian employees, Wisconsin National Guard analysts, and an analyst from the DEA. The ISC maintains a Watch Center that assists law enforcement with specific requests for information and facilitates event and target de-confliction for law enforcement via the Case Explorer system. In addition, the ISC shares information within the intelligence environment, including the Wisconsin State Information Center in Madison, the Southeast Terrorism Alert Center in Milwaukee, and the FBI JTTF also in Milwaukee, as appropriate.

The ISC supports complex counter-drug investigations by utilizing expertise in areas of communications analysis and database research to provide investigative leads for investigators. New in 2014 and continuing into 2015 is the extensive analysis of heroin-related overdose deaths in the region and assistance for investigators to identify priority targets.

Task Forces Operating in the HIDTA Region

The table below highlights the Federally funded drug enforcement task forces operating in the Wisconsin HIDTA region. Multiple HIDTA task forces may make up an overarching HIDTA enforcement or investigative initiative.

FEDERALLY FUNDED TASK FORCES	LOCATIONS
DEA Task Force for Southern WI (DEA)	Southeastern Wisconsin
Northeastern Drug Task Force (HIDTA) Includes Brown County MEG	Brown County
South Central Drug Task Force (HIDTA) Includes Dane County MEG	Rock and Dane Counties
Southeastern Drug Task Force (HIDTA) - Includes MEG Units from Waukesha, Racine, Kenosha	Waukesha, Racine and Kenosha Counties
Greater Racine Gang Task Force (FBI)	Kenosha County
Gang-Rock County Safe Streets Task Force (FBI)	Madison County
Drug Gang Task Force (HIDTA)	Wisconsin/HIDTA Region
Milwaukee Metropolitan Enforcement Group (MMEG) co-located at HIDTA	Milwaukee County
Heroin Initiative (HIDTA)	Wisconsin/HIDTA Region
Interdiction Initiative (HIDTA)	Wisconsin/HIDTA Region
Fugitive Task Force (HIDTA)	Throughout Southeast WI

Task Force Coordination

Four Wisconsin HIDTA investigative/enforcement initiatives are co-located in the HIDTA facility in Milwaukee. In addition to these initiatives, the Milwaukee Metropolitan Enforcement Group is co-located with the HIDTA but operates under its own Executive Board policies and is responsible for small to mid-level drug investigations in Milwaukee County. Three additional investigative/enforcement initiatives are based within the northeast, south central, and southeast regions of Wisconsin.

Each of the enforcement initiatives is dedicated to its described mission not only with respect to the regional areas of responsibility, but also to the particular threats the initiative targets. For instance, as a response to the ever-increasing threat caused by heroin and prescription opioids in the region, the Heroin Initiative was created and approved by the Executive Board early in 2012. Likewise, all enforcement initiatives listed above look to reduce the threats of violence, drug trafficking, and drug use within the HIDTA region.

The Wisconsin HIDTA Executive Board is composed of representatives of all 25 member agencies and is committed to an impact-driven strategy. This strategy emphasizes full cooperation and information sharing efforts, which ultimately lead to well-coordinated and efficient operations. To further this mission, an Operations Coordinator appointed by the Executive Board is

responsible for coordinating the investigations within the HIDTA to ensure maximum use of limited resources. Regular information-sharing meetings are held with supervisors of all enforcement initiatives to further the HIDTA mission.

Coordination of all investigative information is accomplished through the HIDTA ISC and through the use of a common automated case management system (Automated Criminal Investigation Secure System or ACISS) operated by the state of Wisconsin Department of Justice, Division of Criminal Investigation. Criminal Intelligence Analysts from the HIDTA regularly meet with each of the task forces to gather and share information.

HIDTA Evaluation

The Wisconsin HIDTA's area of responsibility focuses on seven counties in Wisconsin. In 2013, the Wisconsin HIDTA disrupted or dismantled 50 DTOs consisting of 5 international, 22 multi-state, and 23 local in scope. The wholesale value of the drugs removed from the marketplace by the HIDTA initiatives was over \$9.5 million, and the cash and assets seized was valued at over \$5.4 million. The 2013 ROI for the Wisconsin HIDTA was \$3.45 which was consistent with the 2013 target. The Safe and Sound Prevention initiative continues to make a difference in assisting after-school programs, enabling law enforcement initiatives to address drug use through a multi-pronged strategy.



Equitable Sharing Agreement and Certification



NCIC/ORI/Tracking Number: WIMPD0000
Agency Name: Milwaukee Police Department
Mailing Address: 749 W. State Street
 Milwaukee, WI 53233

Type: Police Department

Finance Contact

Name: Rotar, Daniel
Phone: 4149357452

Email: drotar@milwaukee.gov

ESAC Preparer

Name: Rotar, Daniel
Phone: 4149357452

Email: drotar@milwaukee.gov

FY End Date: 12/31/2014

Agency FY 2015 Budget: \$248,574,534.00

Annual Certification Report

Summary of Equitable Sharing Activity	Justice Funds ¹	Treasury Funds ²
1 Beginning Equitable Sharing Fund Balance <small>(Must match Ending Balance from prior FY)</small>	\$1,630,063.08	\$133,254.73
2 Equitable Sharing Funds Received	\$603,882.38	\$3,160.14
3 Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force <small>(Complete Table B)</small>	\$6,518.61	\$0.00
4 Other Income	\$0.00	\$0.00
5 Interest Income	\$1,190.00	\$65.00
6 Total Equitable Sharing Funds Received <small>(total of lines 1-5)</small>	\$2,241,654.07	\$136,479.87
7 Equitable Sharing Funds Spent <small>(total of lines a - n below)</small>	\$918,745.19	\$0.00
8 Ending Equitable Sharing Funds Balance <small>(difference between line 7 and line 6)</small>	\$1,322,908.88	\$136,479.87

¹Department of Justice Asset Forfeiture Program participants are: FBI, DEA, ATF, USPIS, USDA, DCIS, DSS, and FDA

²Department of the Treasury Asset Forfeiture Program participants are: IRS, ICE, CBP and USSS.

Summary of Shared Funds Spent	Justice Funds	Treasury Funds
a Law enforcement operations and investigations	\$0.00	\$0.00
b Training and education	\$0.00	\$0.00
c Law enforcement, public safety and detention facilities	\$149,658.53	\$0.00
d Law enforcement equipment	\$581,009.79	\$0.00
e Joint law enforcement/public safety operations	\$0.00	\$0.00
f Contracting for services	\$67,865.15	\$0.00
g Law enforcement travel and per diem	\$90,958.18	\$0.00
h Law enforcement awards and memorials	\$0.00	\$0.00
i Drug, gang and other education or awareness programs	\$0.00	\$0.00
j Matching grants <small>(Complete Table C)</small>	\$27,030.10	\$0.00
k Transfers to other participating law enforcement agencies <small>(Complete Table D)</small>	\$0.00	\$0.00
l Support of community-based programs <small>(Complete Table E)</small>	\$0.00	\$0.00
m Non-categorized expenditures <small>(Complete Table F)</small>	\$2,223.44	\$0.00
n Salaries <small>(Complete Table G)</small>	\$0.00	\$0.00
Total	\$918,745.19	\$0.00

Table B: Equitable Sharing Funds Received From Other Agencies

Transferring Agency Name	Justice Funds	Treasury Funds
Milwaukee Metropolitan Drug Enforcement Group	\$6,518.61	

Table C: Matching Grants

Matching Grant Name	Justice Funds	Treasury Funds
2012-1014 Port Security MDA Investment Grant	\$27,030.10	

Table D: Transfers to Other Participating Law Enforcement Agencies

Receiving Agency Name	Justice Funds	Treasury Funds

Table E: Support of Community-based Programs

Recipient	Justice Funds	Treasury Funds

Table F: Non-categorized expenditures in (a) - (n) Above

Description	Justice Funds	Treasury Funds
Return proceeds to USMS (12-DEA-561857	\$2,223.44	

Table G: Salaries

Salary Type	Justice Funds	Treasury Funds

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Asset Forfeiture and Money Laundering Section: 1400 New York Avenue, N.W., Washington, DC 20005.

Did your agency purchase any controlled equipment? YES NO

Affidavit

Under penalty of perjury, the undersigned officials certify that **they have read and understand their obligations under the Equitable Sharing Agreement** and that the information submitted in conjunction with this Document is an accurate accounting of funds received and spent by the Agency under the Guide during the reporting period and that the recipient Agency is compliant with the National Code of Professional Conduct for Asset Forfeiture.

The undersigned certify that the recipient Agency is in compliance with the applicable nondiscrimination requirements of the following laws and their implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the above-stated law enforcement agency ("Agency"), and (3) the governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably shared with participating law enforcement agencies. By submission of this form, the Agency agrees that it will be bound by the statutes and guidelines that regulate shared assets and the following requirements for participation in the Department of Justice and Department of the Treasury Equitable Sharing Programs. Receipt of the signed Equitable Sharing Agreement and Certification (this "Document") is a prerequisite to receiving any equitably shared cash, property, or proceeds.

1. Submission. This Document must be submitted within 60 days of the end of the Agency's fiscal year. This Document must be signed and submitted electronically. Electronic submission constitutes submission to the Department of Justice and the Department of the Treasury.

2. Signatories. This agreement must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, city attorney, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body's head is the head of the agency that appropriates funding to the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, administrator, commissioner, and governor. The governing body head cannot be from the law enforcement agency and must be from a separate entity.

3. Uses. Any shared asset shall be used for law enforcement purposes in accordance with the statutes and guidelines that govern the Department of Justice and the Department of the Treasury Equitable Sharing Programs as set forth in the current edition of the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Guide)*.

4. Transfers. Before the Agency transfers funds to other state or local law enforcement agencies, it must first verify with the Department of Justice that the receiving agency is a compliant Equitable Sharing Program participant. Transfers of tangible property are not permitted.

5. Internal Controls. The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury. Funds from state and local forfeitures, joint law enforcement operations funds, and other sources must not be commingled with federal equitable sharing funds.

The Agency certifies that funds are maintained by the jurisdiction maintaining appropriated funds and agrees that such accounting will be subject to the standard accounting requirements and practices employed by the Agency's jurisdiction in accordance with the requirements set forth in the current edition of the *Guide*, including the requirement to maintain relevant documents and records for five years.

The misuse or misapplication of shared resources or supplantation of existing resources with shared assets is prohibited. The Agency must follow its jurisdiction's procurement policies when expending shared funds. Failure to comply with any provision of this agreement shall subject the recipient agency to the sanctions stipulated in the current edition of the *Guide*.

6. Audit Report. Audits will be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Super Circular,

Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards. The Department of Justice and the Department of the Treasury reserve the right to conduct periodic random audits or reviews.

7. Freedom of Information Act. Information provided in this Document is subject to the FOIA requirements of the Department of Justice and the Department of the Treasury.

During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; or (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above?

Yes No

Agency Head

Name: Flynn, Edward A.
Title: Chief of Police
Email: eflynn@milwaukee.gov

Signature: _____ Date: _____

To the best of my knowledge and belief, the information provided on this form is true and accurate and has been reviewed and authorized by the Law Enforcement Agency Head whose name appears above. Entry of the Agency Head name above indicates his/her acceptance of and agreement to abide by the policies and procedures set forth in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, including ensuring permissibility of expenditures and following all required procurement policies and procedures. Entry of the Agency Head name above also indicates his/her acceptance of and agreement to abide by requirements set forth in this Equitable Sharing Agreement, and any policies or procedures issued by the Department of Justice or the Department of the Treasury related to the Asset Forfeiture or Equitable Sharing programs. The Law Enforcement Head also certifies that no items on the Prohibited list, as detailed in "Recommendations Pursuant to Executive Order 13688", were purchased with equitable sharing funds on or after October 1, 2015.

Governing Body Head

Name: Barrett, Tom
Title: Mayor
Email: mayor@milwaukee.gov

Signature: _____ Date: _____

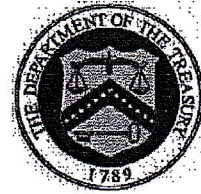
To the best of my knowledge and belief, the agency's current fiscal year budget reported on this form is true and accurate and the Governing Body Head whose name appears above certifies that the agency's budget has not been supplanted as a result of receiving equitable sharing funds. Entry of the Governing Body Head name above indicates his/her acceptance of and agreement to abide by the policies and procedures set forth in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, this Equitable Sharing Agreement, and any policies or procedures issued by the Department of Justice or the Department of the Treasury related to the Asset Forfeiture or Equitable Sharing Programs.

I certify that I am authorized to submit this form on behalf of the Agency Head and the Governing Body Head.

Submitted Electronically on 10/16/2015



Equitable Sharing Agreement and Certification



Police Department Sheriff's Office Task Force Prosecutor's Office Version:1.7
 National Guard Counterdrug Unit Other

Agency Name: Milwaukee Police Department NCIC: WIMPD0000
 Street Address: 749 W. State Street City: Milwaukee State: WI Zip: 53233
 Finance Contact: First: Daniel Last: Rotar
 Phone: 414-935-7452 Email: drotar@milwaukee.gov
 Preparer: First: Last:
 Phone: Email:

Independent Public Accountant: Email:

FY End Date: 12/31/2008 Agency Current FY Budget: \$230,576,730.00

New Participant Existing Participant Amended Form

Annual Certification Report

Summary of Equitable Sharing Activity

	Justice Funds	Treasury Funds
1. Beginning Equitable Sharing Fund Balance	\$2,634,562.06	\$0.00
2. Federal Sharing Funds Received	\$884,283.82	\$105,698.22
3. Federal Sharing Funds Received from Other Law Enforcement Agencies & TI	\$0.00	\$0.00
4. Other Income	\$0.00	\$0.00
5. Interest Income Accrued	\$20,172.00	\$0.00
Non-Interest Bearing Account		
6. Total Equitable Sharing Funds (total lines 1-5)	\$3,539,017.88	\$105,698.22
7. Federal Sharing Funds Spent (total lines a-n below)	\$1,191,370.65	\$0.00
8. Ending Balance (subtract lines 7 from 6)	\$2,347,647.23	\$105,698.22

Summary of Shared Monies Spent

	Justice Funds	Treasury Funds
a. Total spent on salaries	\$0.00	\$0.00
b. Total spent on overtime	\$0.00	\$0.00
c. Total spent on informants, "buy money" and rewards	\$0.00	\$0.00
d. Total spent on travel and training	\$87,719.25	\$0.00
e. Total spent on communications and computers	\$568,886.72	\$0.00
f. Total spent on weapons and protective gear	\$37,200.28	\$20,604.00
g. Total spent on electronic surveillance	\$53,210.00	\$0.00
h. Total spent on building and improvements	\$152,818.81	\$0.00
i. Total transfers to other state and local law enforcement agencies (Table C)	\$0.00	\$0.00
j. Total spent on other law enforcement expenses (Table D)	\$291,535.59	\$0.00
k. Total Expenditures in Support of Community-based Programs (Table E)	\$0.00	\$0.00
l. Total Windfall Transfers to Other Government Agencies (Table F)	\$0.00	\$0.00
m. Total spent on matching grants (Table G)	\$0.00	\$0.00
n. Total	\$1,191,370.65	\$20,604.00
o. Did your agency receive non-cash assets? (Table H) Yes No		

Table A: Members of Task Force

Table B: Equitable Sharing Funds Received from Other Agencies

Agency Name

Table C: Equitable Sharing Funds Transferred to Other Agencies

Table D: Other Law Enforcement Expenses

Description of Expense	Justice	Treasury
Administrative Fees	\$3,130.34	
Arson Unit Equipment	\$8,199.54	
Audio-Visual Equipment	\$19,580.54	
Bicycle Unit	\$440.50	
Cameras for Districts	\$3,935.85	
Crime Scene Investigation Unit	\$38,291.21	
Harbor Patrol Equipment	\$16,774.53	
Homicide Unit Equipment	\$1,440.16	
Laser Speed Boards	\$44,450.00	
Search Engine Fees	\$625.00	
Mounted Patrol Unit	\$115,059.96	
Canines	\$4,276.41	
Defibrillators	\$5,654.03	
Tactical Enforcement Unit Supplies	\$6,490.70	
Forensic Investigation Equipment	\$15,041.70	
Vice Equipment & Repairs	\$4,122.86	
REFUND- Jeffrey Bell Case# 05-DEA0457520/I3-05-0253	\$4,022.26	

Table E: Expenditures in Support of Community-based Programs

Table F: Windfall Transfers

Table G: Matching Grants

Table H: Other Non-Cash Assets Received

Asset Description

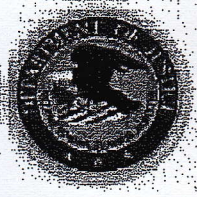
Justice funds: \$43,159.66 Treasury funds:

Table I: Civil Rights Cases

Case Name	Discrimination Alleged				
Kaye, Martin D. v. Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ●Other:Retaltn-DISMISS	Gender	
Kern, Harrison v. City of Milwaukee, City of Milwaukee Police Dept.	●Race Disability	Color Age	Nat. Origin ●Other:Harassment	Gender	
Burems, Ricky v. Milwaukee Police Department	●Race Disability	Color Age	Nat. Origin Other:	Gender	
Cole, Diedra Y. v. Milwaukee Police Department	●Race Disability	Color Age	Nat. Origin Other:	●Gender	
Adenekan, Tayo F. v. Milwaukee Police Department, Fire & Police Commission	●Race Disability	Color Age	●Nat. Origin ●Other:DISMISSED	Gender	
Alderman, Angel Marie v. City of Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ●Other:Sex Orientation	Gender	
Moore, Percy v. Milwaukee Police Department	●Race Disability	Color ●Age	Nat. Origin Other:	Gender	

Serrano, Grisselle v. Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ● Gender Other:
Khatib, Ayman v. City of Milwaukee	Race Disability	Color Age	● Nat. Origin Gender ● Other:Religion/Retali
Simpson, Lenard v. City of Milwaukee Police Department	● Race Disability	Color Age	Nat. Origin Gender Other:
Lewis, Jasmine v. City of Milwaukee	● Race Disability	Color Age	Nat. Origin ● Gender ● Other:Retaliation
Baker, Nancie A. Jr. v. City of Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ● Gender Other:
Prince, Devennette v. City of Milwaukee Police Dept.	● Race Disability	Color Age	Nat. Origin ● Gender Other:
Lopez, Stacy R. v. City of Milwaukee, City of Milwaukee Police Dept.	Race Disability	Color Age	Nat. Origin ● Gender ● Other:Harrass-DISSMISS
Rhone, Eddie L. v. City of Milwaukee	● Race Disability	Color Age	Nat. Origin Gender Other:
Kaye, Martin D. v. City of Milwaukee	Race Disability	Color Age	Nat. Origin Gender ● Other:Retaltn-DISSMISS
Davis, Lacarlin A. v. City of Milwaukee Police Dept.	Race ● Disability	Color Age	Nat. Origin Gender Other:
Dudley, Kevin A.. v City of Milwaukee Police Department	● Race Disability	Color Age	Nat. Origin Gender Other:
Capati, Michael A. v. City of Milwaukee Police Dept.	● Race Disability	Color Age	Nat. Origin Gender ● Other:DISMISSED
Flowers, Kerry v. City of Milwaukee	● Race Disability	Color Age	Nat. Origin Gender ● Other:DISMISSED
Moore, Eric J. v. Milwaukee Police Department, Milwaukee Fire & Police Commission	● Race Disability	Color Age	Nat. Origin Gender ● Other:Retaliation
Metzler, Shelley M. v. Milwaukee Police Department	Race Disability	Color Age	Nat. Origin ● Gender ● Other:DISMISSED
Cole, Diedra Y. v. City of Milwaukee Police Department	● Race ● Disability	Color Age	Nat. Origin Gender ● Other:Retaliation
McIntosh, Sharell M. v. City of Milwaukee	Race Disability	Color Age	Nat. Origin ● Gender Other:
Hannah, Alvin O. v. Milwaukee Police Department	● Race Disability	Color Age	Nat. Origin ● Gender ● Other:Retaliation
Lewis, Jasmine C. v. City of Milwaukee	Race Disability	Color Age	Nat. Origin ● Gender ● Other:Harassment

During the past fiscal year, has the Agency been part of any proceedings alleging discrimination by the Agency? ● Yes No



Equitable Sharing Agreement and Certification



● **Police Department**

Sheriff's Office

Task Force

Prosecutor's Office

National Guard Counterdrug Unit

Other

Agency Name: Milwaukee Police Department

NCIC: WIMPD0000

Street Address: 749 W. State Street

City: Milwaukee

State: WI **Zip:** 53233

Finance Contact: **First:** Daniel

Last: Rotar

Phone: 414-935-7452

Email: drotar@milwaukee.gov

Preparer: **First:**

Last:

Phone:

Email:

Independant Public Accountant: **Email:**

Agency Head

Name: Edward A. Flynn

Title: Police Chief

Date: 05/14/2009

Email:

Governing Body Head

Name: Tom Barrett

Title: Mayor

Date: 05/15/2009

Email:

Subscribe to Equitable Sharing Wire:

II.

THE LAW¹

The law perverted! The law—and, in its wake, all the collective forces of the nation—the law, I say, not only diverted from its proper direction, but made to pursue one entirely contrary! The law become the tool of every kind of avarice, instead of being its check! The law guilty of that very iniquity which it was its mission to punish! Truly, this is a serious fact, if it exists, and one to which I feel bound to call the attention of my fellow citizens.

We hold from God the gift that, as far as we are concerned, contains all others, Life—physical, intellectual, and moral life.

But life cannot support itself. He who has bestowed it, has entrusted us with the care of supporting it, of developing it, and of perfecting it. To that end, He has provided us with a collection of wonderful faculties; He has plunged us into the midst of a variety of elements. It is by the application of our faculties to these elements that the phenomena of assimilation and of appropriation, by which life pursues the circle that has been assigned to it are realized.

¹First published in 1850.

Existence, faculties, assimilation—in other words, personality, liberty, property—this is man.

It is of these three things that it may be said, apart from all demagogic subtlety, that they are anterior and superior to all human legislation.

It is not because men have made laws, that personality, liberty, and property exist. On the contrary, it is because personality, liberty, and property exist beforehand, that men make laws. What, then, is law? As I have said elsewhere, it is the collective organization of the individual right to lawful defense.

Nature, or rather God, has bestowed upon every one of us the right to defend his person, his liberty, and his property, since these are the three constituent or preserving elements of life; elements, each of which is rendered complete by the others, and that cannot be understood without them. For what are our faculties, but the extension of our personality? and what is property, but an extension of our faculties?

If every man has the right of defending, even by force, his person, his liberty, and his property, a number of men have the right to combine together to extend, to organize a common force to provide regularly for this defense.

Collective right, then, has its principle, its reason for existing, its lawfulness, in individual right; and the common force cannot rationally have any other end, or any other mission, than that of the isolated forces for which it is substituted. Thus, as the force of an individual cannot lawfully touch the person, the liberty, or the property of another individual—for the same reason, the common force cannot lawfully be used to destroy the person, the liberty, or the property of individuals or of classes.

For this perversion of force would be, in one case as in the other, in contradiction to our premises. For who will dare to say that force has been given to us, not to defend our rights, but to annihilate the equal rights of our brethren? And if this be not true of every individual force, acting independently, how can it be true of the collective force, which is only the organized union of isolated forces?

Nothing, therefore, can be more evident than this: The law is the organization of the natural right of lawful defense; it is the substitution of collective for individual forces, for the purpose of acting in the sphere in which they have a right to act, of doing what they have a right to do, to secure persons, liberties, and properties, and to maintain each in its right, so as to cause justice to reign over all.

And if a people established upon this basis were to exist, it seems to me that order would prevail among them in their acts as well as in their ideas. It seems to me that such a people would have the most simple, the most economical, the least oppressive, the least to be felt, the most restrained, the most just, and, consequently, the most stable Government that could be imagined, whatever its political form might be.

For under such an administration, everyone would feel that he possessed all the fullness, as well as all the responsibility of his existence. So long as personal safety was ensured, so long as labor was free, and the fruits of labor secured against all unjust attacks, no one would have any difficulties to contend with in the State. When prosperous, we should not, it is true, have to thank the State for our success; but when unfortunate, we should no more think of taxing it with our disasters than our peasants think of attributing to it the arrival of hail or of frost. We should know it only by the inestimable blessing of Safety.

It may further be affirmed, that, thanks to the non-intervention of the State in private affairs, our wants and their satisfactions would develop themselves in their natural order. We should not see poor families seeking for literary instruction before they were supplied with bread. We should not see towns peopled at the expense of rural districts, nor rural districts at the expense of towns. We should not see those great displacements of capital, of labor, and of population, that legislative measures occasion; displacements that render so uncertain and precarious the very sources of existence, and thus enlarge to such an extent the responsibility of Governments.

Unhappily, law is by no means confined to its own sphere. Nor is it merely in some ambiguous and debatable views that it has left its proper sphere. It has done more than this. It has acted in direct opposition to its proper end; it has destroyed its own object; it has been employed in annihilating that justice which it ought to have established, in effacing amongst Rights, that limit which it was its true mission to respect; it has placed the collective force in the service of those who wish to traffic, without risk and without scruple, in the persons, the liberty, and the property of others; it has converted plunder into a right, that it may protect it, and lawful defense into a crime, that it may punish it.

How has this perversion of law been accomplished? And what has resulted from it?

The law has been perverted through the influence of two very different causes—naked greed and misconceived philanthropy.

Let us speak of the former. Self-preservation and development is the common aspiration of all men, in such a way that if every one enjoyed the free exercise of his faculties and the free disposition of their fruits, social progress would be incessant, uninterrupted, inevitable.

But there is also another disposition which is common to them. This is to live and to develop, when they can, at the expense of one another. This is no rash imputation, emanating from a gloomy, uncharitable spirit. History bears witness to the truth of it, by the incessant wars, the migrations of races, sectarian oppressions, the universality of slavery, the frauds in trade, and the monopolies with which its annals abound. This fatal disposition has its origin in the very constitution of man—in that primitive, and universal, and invincible sentiment that urges it toward its well-being, and makes it seek to escape pain.

Man can only derive life and enjoyment from a perpetual search and appropriation; that is, from a perpetual application of his faculties to objects, or from labor. This is the origin of property.

But also he may live and enjoy, by seizing and appropriating the productions of the faculties of his fellow men. This is the origin of plunder.

Now, labor being in itself a pain, and man being naturally inclined to avoid pain, it follows, and history proves it, that wherever plunder is less burdensome than labor, it prevails; and neither religion nor morality can, in this case, prevent it from prevailing.

When does plunder cease, then? When it becomes more burdensome and more dangerous than labor. It is very evident that the proper aim of law is to oppose the fatal tendency to plunder with the powerful obstacle of collective force; that all its measures should be in favor of property, and against plunder.

But the law is made, generally, by one man, or by one class of men. And as law cannot exist without the sanction and the support of a preponderant force, it must finally place this force in the hands of those who legislate.

This inevitable phenomenon, combined with the fatal tendency that, we have said, exists in the heart of man, explains the almost universal perversion of law. It is easy to conceive that, instead of being a check upon injustice, it becomes its most invincible instrument.

It is easy to conceive that, according to the power of the legislator, it destroys for its own profit, and in different degrees amongst the rest of the community, personal independence by slavery, liberty by oppression, and property by plunder.

It is in the nature of men to rise against the injustice of which they are the victims. When, therefore, plunder is organized by law, for the profit of those who perpetrate it, all the plundered classes tend, either by peaceful or revolutionary means, to enter in some way into the manufacturing of laws. These classes, according to the degree of enlightenment at which they have arrived, may propose to themselves two very different ends, when they thus attempt the attainment of their political rights; either they may wish to put an end to lawful plunder, or they may desire to take part in it.

Woe to the nation where this latter thought prevails amongst the masses, at the moment when they, in their turn, seize upon the legislative power!

Up to that time, lawful plunder has been exercised by the few upon the many, as is the case in countries where the right of legislating is confined to a few hands. But now it has become universal, and the equilibrium is sought in universal plunder. The injustice that society contains, instead of being rooted out of it, is generalized. As soon as the injured classes have recovered their political rights, their first thought is not to abolish plunder (this would suppose them to possess enlightenment, which they cannot have), but to organize against the other classes, and to their own detriment, a system of reprisals—as if it was necessary, before the reign of justice arrives, that all should undergo a cruel retribution—some for their iniquity and some for their ignorance.

It would be impossible, therefore, to introduce into society a greater change and a greater evil than this—the conversion of the law into an instrument of plunder.

What would be the consequences of such a perversion? It would require volumes to describe them all. We must content ourselves with pointing out the most striking.

In the first place, it would efface from everybody's conscience the distinction between justice and injustice. No society can exist unless the laws are respected to a certain degree, but the safest way to make them respected is to make them respectable. When law and morality are in contradiction to each other, the citizen finds himself in the cruel alternative of either losing his moral sense, or of losing his respect for the law—two evils of equal magnitude, between which it would be difficult to choose.

It is so much in the nature of law to support justice that in the minds of the masses they are one and the same. There is in all of us a strong disposition to regard what is lawful as legitimate, so much so that many falsely derive all justice from law. It is sufficient, then, for the law to order and sanction plunder, that it may appear to many consciences just and sacred. Slavery, protection, and monopoly find defenders, not only in those who profit by

them, but in those who suffer by them. If you suggest a doubt as to the morality of these institutions, it is said directly—"You are a dangerous experimenter, a utopian, a theorist, a despiser of the laws; you would shake the basis upon which society rests."

If you lecture upon morality, or political economy, official bodies will be found to make this request to the Government:

That henceforth science be taught not only with sole reference to free exchange (to liberty, property, and justice), as has been the case up to the present time, but also, and especially, with reference to the facts and legislation (contrary to liberty, property, and justice) that regulate French industry.

That, in public lecterns salaried by the treasury, the professor abstain rigorously from endangering in the slightest degree the respect due to the laws now in force.²

So that if a law exists that sanctions slavery or monopoly, oppression or plunder, in any form whatever, it must not even be mentioned—for how can it be mentioned without damaging the respect that it inspires? Still further, morality and political economy must be taught in connection with this law—that is, under the supposition that it must be just, only because it is law.

Another effect of this deplorable perversion of the law is that it gives to human passions and to political struggles, and, in general, to politics, properly so called, an exaggerated importance.

I could prove this assertion in a thousand ways. But I shall confine myself, by way of an illustration, to bringing it to bear upon a subject which has of late occupied everybody's mind: universal suffrage.

Whatever may be thought of it by the adepts of the school of Rousseau, which professes to be very far advanced, but which I consider 20 centuries behind, universal suffrage (taking the word

²General Council of Manufactures, Agriculture, and Commerce, 6th of May, 1850.

in its strictest sense) is not one of those sacred dogmas with respect to which examination and doubt are crimes.

Serious objections may be made to it.

In the first place, the word universal conceals a gross sophism. There are, in France, 36,000,000 inhabitants. To make the right of suffrage universal, 36,000,000 electors should be reckoned. The most extended system reckons only 9,000,000. Three persons out of four, then, are excluded; and more than this, they are excluded by the fourth. Upon what principle is this exclusion founded? Upon the principle of incapacity. Universal suffrage, then, means: universal suffrage of those who are capable. In point of fact, who are the capable? Are age, sex, and judicial condemnations the only conditions to which incapacity is to be attached?

On taking a nearer view of the subject, we may soon perceive the reason why the right of suffrage depends upon the presumption of incapacity; the most extended system differing from the most restricted in the conditions on which this incapacity depends, and which constitutes not a difference in principle, but in degree.

This motive is, that the elector does not stipulate for himself, but for everybody.

If, as the republicans of the Greek and Roman tone pretend, the right of suffrage had fallen to the lot of every one at his birth, it would be an injustice to adults to prevent women and children from voting. Why are they prevented? Because they are presumed to be incapable. And why is incapacity a reason for exclusion? Because the elector does not reap alone the responsibility of his vote; because every vote engages and affects the community at large; because the community has a right to demand some assurances, as regards the acts upon which its well-being and its existence depend.

I know what might be said in answer to this. I know what might be objected. But this is not the place to settle a controversy of this kind. What I wish to observe is this, that this same controversy (in common with the greater part of political questions) that

agitates, excites, and unsettles the nations, would lose almost all its importance if the law had always been what it ought to be.

In fact, if law were confined to causing all persons, all liberties, and all properties to be respected—if it were merely the organization of individual right and individual defense—if it were the obstacle, the check, the chastisement opposed to all oppression, to all plunder—is it likely that we should dispute much, as citizens, on the subject of the greater or lesser universality of suffrage? Is it likely that it would compromise that greatest of advantages, the public peace? Is it likely that the excluded classes would not quietly wait for their turn? Is it likely that the enfranchised classes would be very jealous of their privilege? And is it not clear, that the interest of all being one and the same, some would act without much inconvenience to the others?

But if the fatal principle should come to be introduced, that, under pretense of organization, regulation, protection, or encouragement, the law may take from one party in order to give to another, help itself to the wealth acquired by all the classes that it may increase that of one class, whether that of the agriculturists, the manufacturers, the ship owners, or artists and comedians; then certainly, in this case, there is no class which may not try, and with reason, to place its hand upon the law, that would not demand with fury its right of election and eligibility, and that would overturn society rather than not obtain it. Even beggars and vagabonds will prove to you that they have an incontestable title to it. They will say:

We never buy wine, tobacco, or salt, without paying the tax, and a part of this tax is given by law in perquisites and gratuities to men who are richer than we are. Others make use of the law to create an artificial rise in the price of bread, meat, iron, or cloth.

Since everybody traffics in law for his own profit, we should like to do the same. We should like to make it produce the right to assistance, which is the poor man's plunder. To effect this, we ought to be electors and legislators, that we may organize, on a large scale, alms for our own class, as you have organized, on a large scale, protection for yours.

Don't tell us that you will take our cause upon yourselves, and throw to us 600,000 francs to keep us quiet, like giving us a bone to pick. We have other claims, and, at any rate, we wish to stipulate for ourselves, as other classes have stipulated for themselves!

How is this argument to be answered? Yes, as long as it is admitted that the law may be diverted from its true mission, that it may violate property instead of securing it, everybody will be wanting to manufacture law, either to defend himself against plunder, or to organize it for his own profit. The political question will always be prejudicial, predominant, and absorbing; in a word, there will be fighting around the door of the Legislative Palace. The struggle will be no less furious within it. To be convinced of this, it is hardly necessary to look at what passes in the Chambers in France and in England; it is enough to know how the question stands.

Is there any need to prove that this odious perversion of law is a perpetual source of hatred and discord, that it even tends to social disorganization? Look at the United States. There is no country in the world where the law is kept more within its proper domain—which is, to secure to everyone his liberty and his property. Therefore, there is no country in the world where social order appears to rest upon a more solid basis. Nevertheless, even in the United States, there are two questions, and only two, that from the beginning have endangered political order. And what are these two questions? That of slavery and that of tariffs; that is, precisely the only two questions in which, contrary to the general spirit of this republic, law has taken the character of a plunderer. Slavery is a violation, sanctioned by law, of the rights of the person. Protection is a violation perpetrated by the law upon the rights of property; and certainly it is very remarkable that, in the midst of so many other debates, this double legal scourge, the sorrowful inheritance of the Old World, should be the only one which can, and perhaps will, cause the rupture of the Union. Indeed, a more astounding fact, in the heart of society, cannot be conceived than this: That law should have become an instrument of injustice. And if this fact occasions consequences so formidable

to the United States, where there is but one exception, what must it be with us in Europe, where it is a principle—a system?

Mr. Montalembert, adopting the thought of a famous proclamation of Mr. Carlier, said, “We must make war against socialism.” And by socialism, according to the definition of Mr. Charles Dupin, he meant plunder. But what plunder did he mean? For there are two sorts: extralegal and legal plunder.

As to extralegal plunder, such as theft, or swindling, which is defined, foreseen, and punished by the penal code, I do not think it can be adorned by the name of socialism. It is not this that systematically threatens the foundations of society. Besides, the war against this kind of plunder has not waited for the signal of Mr. Montalembert or Mr. Carlier. It has gone on since the beginning of the world; France was carrying it on long before the revolution of February—long before the appearance of socialism—with all the ceremonies of magistracy, police, gendarmerie, prisons, dungeons, and scaffolds. It is the law itself that is conducting this war, and it is to be wished, in my opinion, that the law should always maintain this attitude with respect to plunder.

But this is not the case. The law sometimes takes its own part. Sometimes it accomplishes it with its own hands, in order to save the parties benefited the shame, the danger, and the scruple. Sometimes it places all this ceremony of magistracy, police, gendarmerie, and prisons, at the service of the plunderer, and treats the plundered party, when he defends himself, as the criminal. In a word, there is a legal plunder, and it is, no doubt, this that is meant by Mr. Montalembert.

This plunder may be only an exceptional blemish in the legislation of a people, and in this case, the best thing that can be done is, without so many speeches and lamentations, to do away with it as soon as possible, notwithstanding the clamors of interested parties. But how is it to be distinguished? Very easily. See whether the law takes from some persons that which belongs to them, to give to others what does not belong to them. See whether the law performs, for the profit of one citizen, and, to the injury of others, an act that this citizen cannot perform without committing a

crime. Abolish this law without delay; it is not merely an iniquity—it is a fertile source of iniquities, for it invites reprisals; and if you do not take care, the exceptional case will extend, multiply, and become systematic. No doubt the party benefited will exclaim loudly; he will assert his acquired rights. He will say that the State is bound to protect and encourage his industry; he will plead that it is a good thing for the State to be enriched, that it may spend the more, and thus shower down salaries upon the poor workmen. Take care not to listen to this sophistry, for it is just by the systematizing of these arguments that legal plunder becomes systematized.

And this is what has taken place. The delusion of the day is to enrich all classes at the expense of each other; it is to generalize plunder under pretense of organizing it. Now, legal plunder may be exercised in an infinite multitude of ways. Hence come an infinite multitude of plans for organization; tariffs, protection, perquisites, gratuities, encouragements, progressive taxation, free public education, right to work, right to profit, right to wages, right to assistance, right to instruments of labor, gratuity of credit, etc., etc. And it is all these plans, taken as a whole, with what they have in common, legal plunder, that takes the name of socialism.

Now socialism, thus defined, and forming a doctrinal body, what other war would you make against it than a war of doctrine? You find this doctrine false, absurd, abominable. Refute it. This will be all the easier, the more false, absurd, and abominable it is. Above all, if you wish to be strong, begin by rooting out of your legislation every particle of socialism which may have crept into it—and this will be no light work.

Mr. Montalembert has been reproached with wishing to turn brute force against socialism. He ought to be exonerated from this reproach, for he has plainly said: “The war that we must make against socialism must be one that is compatible with the law, honor, and justice.”

But how is it that Mr. Montalembert does not see that he is placing himself in a vicious circle? You would oppose law to socialism. But it is the law that socialism invokes. It aspires to

legal, not extralegal plunder. It is of the law itself, like monopolists of all kinds, that it wants to make an instrument; and when once it has the law on its side, how will you be able to turn the law against it? How will you place it under the power of your tribunals, your gendarmes, and of your prisons? What will you do then? You wish to prevent it from taking any part in the making of laws. You would keep it outside the Legislative Palace. In this you will not succeed, I venture to prophesy, so long as legal plunder is the basis of the legislation within.

It is absolutely necessary that this question of legal plunder should be determined, and there are only three solutions of it:

1. When the few plunder the many.
2. When everybody plunders everybody else.
3. When nobody plunders anybody.

Partial plunder, universal plunder, absence of plunder, amongst these we have to make our choice. The law can only produce one of these results.

Partial plunder. This is the system that prevailed so long as the elective privilege was partial; a system that is resorted to, to avoid the invasion of socialism.

Universal plunder. We have been threatened by this system when the elective privilege has become universal; the masses having conceived the idea of making law, on the principle of legislators who had preceded them.

Absence of plunder. This is the principle of justice, peace, order, stability, conciliation, and of good sense, which I shall proclaim with all the force of my lungs (which is very inadequate, alas!) till the day of my death.

And, in all sincerity, can anything more be required at the hands of the law? Can the law, whose necessary sanction is force, be reasonably employed upon anything beyond securing to every one his right? I defy anyone to remove it from this circle without perverting it, and consequently turning force against right. And as this is the most fatal, the most illogical social perversion that can possibly be imagined, it must be admitted that the true solution,

so much sought after, of the social problem, is contained in these simple words—LAW IS ORGANIZED JUSTICE.

Now it is important to remark, that to organize justice by law, that is to say by force, excludes the idea of organizing by law, or by force any manifestation whatever of human activity—labor, charity, agriculture, commerce, industry, instruction, the fine arts, or religion; for any one of these organizings would inevitably destroy the essential organization. How, in fact, can we imagine force encroaching upon the liberty of citizens without infringing upon justice, and so acting against its proper aim?

Here I am taking on the most popular prejudice of our time. It is not considered enough that law should be just, it must be philanthropic. It is not sufficient that it should guarantee to every citizen the free and inoffensive exercise of his faculties, applied to his physical, intellectual, and moral development; it is required to extend well-being, instruction, and morality, directly over the nation. This is the fascinating side of socialism.

But, I repeat it, these two missions of the law contradict each other. We have to choose between them. A citizen cannot at the same time be free and not free. Mr. de Lamartine wrote to me one day thus: “Your doctrine is only the half of my program; you have stopped at liberty, I go on to fraternity.” I answered him: “The second part of your program will destroy the first.” And in fact it is impossible for me to separate the word fraternity from the word voluntary. I cannot possibly conceive fraternity legally enforced, without liberty being legally destroyed, and justice legally trampled under foot. Legal plunder has two roots: one of them, as we have already seen, is in human greed; the other is in misconceived philanthropy.

Before I proceed, I think I ought to explain myself upon the word plunder.

I do not take it, as it often is taken, in a vague, undefined, relative, or metaphorical sense. I use it in its scientific acceptation, and as expressing the opposite idea to property. When a portion of wealth passes out of the hands of him who has acquired it, without his consent, and without compensation, to him who has

not created it, whether by force or by artifice, I say that property is violated, that plunder is perpetrated. I say that this is exactly what the law ought to repress always and everywhere. If the law itself performs the action it ought to repress, I say that plunder is still perpetrated, and even, in a social point of view, under aggravated circumstances. In this case, however, he who profits from the plunder is not responsible for it; it is the law, the lawgiver, society itself, and this is where the political danger lies.

It is to be regretted that there is something offensive in the word. I have sought in vain for another, for I would not wish at any time, and especially just now, to add an irritating word to our disagreements; therefore, whether I am believed or not, I declare that I do not mean to impugn the intentions nor the morality of anybody. I am attacking an idea that I believe to be false—a system that appears to me to be unjust; and this is so independent of intentions, that each of us profits by it without wishing it, and suffers from it without being aware of the cause.

Any person must write under the influence of party spirit or of fear, who would call into question the sincerity of protectionism, of socialism, and even of communism, which are one and the same plant, in three different periods of its growth. All that can be said is, that plunder is more visible by its partiality in protectionism,³ and by its universality in communism; whence it follows that, of the three systems, socialism is still the most vague, the most undefined, and consequently the most sincere.

Be that as it may, to conclude that legal plunder has one of its roots in misconceived philanthropy, is evidently to put intentions out of the question.

³If protection were only granted in France to a single class, to the engineers, for instance, it would be so absurdly plundering, as to be unable to maintain itself. Thus we see all the protected trades combine, make common cause, and even recruit themselves in such a way as to appear to embrace the mass of the national labor. They feel instinctively that plunder is slurred over by being generalized.

With this understanding, let us examine the value, the origin, and the tendency of this popular aspiration, which pretends to realize the general good by general plunder.

The Socialists say, since the law organizes justice, why should it not organize labor, instruction, and religion?

Why? Because it could not organize labor, instruction, and religion, without disorganizing justice.

For remember, that law is force, and that consequently the domain of the law cannot properly extend beyond the domain of force.

When law and force keep a man within the bounds of justice, they impose nothing upon him but a mere negation. They only oblige him to abstain from doing harm. They violate neither his personality, his liberty, nor his property. They only guard the personality, the liberty, the property of others. They hold themselves on the defensive; they defend the equal right of all. They fulfill a mission whose harmlessness is evident, whose utility is palpable, and whose legitimacy is not to be disputed. This is so true that, as a friend of mine once remarked to me, to say that the aim of the law is to cause justice to reign, is to use an expression that is not rigorously exact. It ought to be said, the aim of the law is to prevent injustice from reigning. In fact, it is not justice that has an existence of its own, it is injustice. The one results from the absence of the other.

But when the law, through the medium of its necessary agent—force—imposes a form of labor, a method or a subject of instruction, a creed, or a worship, it is no longer negative; it acts positively upon men. It substitutes the will of the legislator for their own will, the initiative of the legislator for their own initiative. They have no need to consult, to compare, or to foresee; the law does all that for them. The intellect is for them a useless encumbrance; they cease to be men; they lose their personality, their liberty, their property.

Try to imagine a form of labor imposed by force, that is not a violation of liberty; a transmission of wealth imposed by force, that is not a violation of property. If you cannot succeed in reconciling

this, you are bound to conclude that the law cannot organize labor and industry without organizing injustice.

When, from the seclusion of his office, a politician takes a view of society, he is struck with the spectacle of inequality that presents itself. He mourns over the sufferings that are the lot of so many of our brethren, sufferings whose aspect is rendered yet more sorrowful by the contrast of luxury and wealth.

He ought, perhaps, to ask himself whether such a social state has not been caused by the plunder of ancient times, exercised in the way of conquests; and by plunder of more recent times, effected through the medium of the laws? He ought to ask himself whether, granting the aspiration of all men to well-being and improvement, the reign of justice would not suffice to realize the greatest activity of progress, and the greatest amount of equality compatible with that individual responsibility that God has awarded as a just retribution of virtue and vice?

He never gives this a thought. His mind turns toward combinations, arrangements, legal or factitious organizations. He seeks the remedy in perpetuating and exaggerating what has produced the evil.

For, justice apart, which we have seen is only a negation, is there any one of these legal arrangements that does not contain the principle of plunder?

You say, "There are men who have no money," and you apply to the law. But the law is not a self-supplied fountain, whence every stream may obtain supplies independently of society. Nothing can enter the public treasury, in favor of one citizen or one class, but what other citizens and other classes have been forced to send to it. If everyone draws from it only the equivalent of what he has contributed to it, your law, it is true, is no plunderer, but it does nothing for men who want money—it does not promote equality. It can only be an instrument of equalization as far as it takes from one party to give to another, and then it is an instrument of plunder. Examine, in this light, the protection of tariffs, subsidies, right to profit, right to labor, right to assistance, free public education, progressive taxation, gratuitousness of

credit, social workshops, and you will always find at the bottom legal plunder, organized injustice.

You say, "There are men who want knowledge," and you apply to the law. But the law is not a torch that sheds light that originates within itself. It extends over a society where there are men who have knowledge, and others who have not; citizens who want to learn, and others who are disposed to teach. It can only do one of two things: either allow a free operation to this kind of transaction, i.e., let this kind of want satisfy itself freely; or else pre-empt the will of the people in the matter, and take from some of them sufficient to pay professors commissioned to instruct others for free. But, in this second case there cannot fail to be a violation of liberty and property—legal plunder.

You say, "Here are men who are wanting in morality or religion," and you apply to the law; but law is force, and need I say how far it is a violent and absurd enterprise to introduce force in these matters?

As the result of its systems and of its efforts, it would seem that socialism, notwithstanding all its self-complacency, can scarcely help perceiving the monster of legal plunder. But what does it do? It disguises it cleverly from others, and even from itself, under the seductive names of fraternity, solidarity, organization, association. And because we do not ask so much at the hands of the law, because we only ask it for justice, it alleges that we reject fraternity, solidarity, organization, and association; and they brand us with the name of individualists.

We can assure them that what we repudiate is not natural organization, but forced organization.

It is not free association, but the forms of association that they would impose upon us.

It is not spontaneous fraternity, but legal fraternity.

It is not providential solidarity, but artificial solidarity, which is only an unjust displacement of responsibility.

Socialism, like the old policy from which it emanates, confounds Government and society. And so, every time we object to a thing being done by Government, it concludes that we object to

its being done at all. We disapprove of education by the State—then we are against education altogether. We object to a State religion—then we would have no religion at all. We object to an equality which is brought about by the State then we are against equality, etc., etc. They might as well accuse us of wishing men not to eat, because we object to the cultivation of corn by the State.

How is it that the strange idea of making the law produce what it does not contain—prosperity, in a positive sense, wealth, science, religion—should ever have gained ground in the political world? The modern politicians, particularly those of the Socialist school, found their different theories upon one common hypothesis; and surely a more strange, a more presumptuous notion, could never have entered a human brain.

They divide mankind into two parts. Men in general, except one, form the first; the politician himself forms the second, which is by far the most important.

In fact, they begin by supposing that men are devoid of any principle of action, and of any means of discernment in themselves; that they have no initiative; that they are inert matter, passive particles, atoms without impulse; at best a vegetation indifferent to its own mode of existence, susceptible of assuming, from an exterior will and hand an infinite number of forms, more or less symmetrical, artistic, and perfected.

Moreover, every one of these politicians does not hesitate to assume that he himself is, under the names of organizer, discoverer, legislator, institutor or founder, this will and hand, this universal initiative, this creative power, whose sublime mission it is to gather together these scattered materials, that is, men, into society.

Starting from these data, as a gardener according to his caprice shapes his trees into pyramids, parasols, cubes, cones, vases, espaliers, distaffs, or fans; so the Socialist, following his chimera, shapes poor humanity into groups, series, circles, subcircles, honeycombs, or social workshops, with all kinds of variations. And as the gardener, to bring his trees into shape, needs

hatchets, pruning hooks, saws, and shears, so the politician, to bring society into shape, needs the forces which he can only find in the laws; the law of tariffs, the law of taxation, the law of assistance, and the law of education.

It is so true, that the Socialists look upon mankind as a subject for social experiments, that if, by chance, they are not quite certain of the success of these experiments, they will request a portion of mankind, as a subject to experiment upon. It is well known how popular the idea of trying all systems is, and one of their chiefs has been known seriously to demand of the Constituent Assembly a parish, with all its inhabitants, upon which to make his experiments.

It is thus that an inventor will make a small machine before he makes one of the regular size. Thus the chemist sacrifices some substances, the agriculturist some seed and a corner of his field, to make trial of an idea.

But think of the difference between the gardener and his trees, between the inventor and his machine, between the chemist and his substances, between the agriculturist and his seed! The Socialist thinks, in all sincerity, that there is the same difference between himself and mankind.

No wonder the politicians of the nineteenth century look upon society as an artificial production of the legislator's genius. This idea, the result of a classical education, has taken possession of all the thinkers and great writers of our country.

To all these persons, the relations between mankind and the legislator appear to be the same as those that exist between the clay and the potter.

Moreover, if they have consented to recognize in the heart of man a capability of action, and in his intellect a faculty of discernment, they have looked upon this gift of God as a fatal one, and thought that mankind, under these two impulses, tended fatally toward ruin. They have taken it for granted that if abandoned to their own inclinations, men would only occupy themselves with religion to arrive at atheism, with instruction to come to ignorance, and with labor and exchange to be extinguished in misery.

Happily, according to these writers, there are some men, termed governors and legislators, upon whom Heaven has bestowed opposite tendencies, not for their own sake only, but for the sake of the rest of the world.

Whilst mankind tends to evil, they incline to good; whilst mankind is advancing toward darkness, they are aspiring to enlightenment; whilst mankind is drawn toward vice, they are attracted by virtue. And, this granted, they demand the assistance of force, by means of which they are to substitute their own tendencies for those of the human race.

It is only needful to open, almost at random, a book on philosophy, politics, or history, to see how strongly this idea—the child of classical studies and the mother of socialism—is rooted in our country; that mankind is merely inert matter, receiving life, organization, morality, and wealth from power; or, rather, and still worse—that mankind itself tends toward degradation, and is only arrested in its tendency by the mysterious hand of the legislator. Classical conventionalism shows us everywhere, behind passive society, a hidden power, under the names of Law, or Legislator (or, by a mode of expression which refers to some person or persons of undisputed weight and authority, but not named), which moves, animates, enriches, and regenerates mankind.

We will give a quotation from Bossuet:

One of the things which was the most strongly impressed (by whom?) upon the mind of the Egyptians, was the love of their country. . . . Nobody was allowed to be useless to the State; the law assigned to every one his employment, which descended from father to son. No one was permitted to have two professions, nor to adopt another. . . . But there was one occupation which was obliged to be common to all, this was the study of the laws and of wisdom; ignorance of religion and the political regulations of the country was excused in no condition of life. Moreover, every profession had a district assigned to it (by whom?). . . . Amongst good laws, one of the best things was, that everybody was taught to observe them (by whom?). Egypt abounded with wonderful inventions, and nothing was neglected which could render life comfortable and tranquil.

Thus men, according to Bossuet, derive nothing from themselves; patriotism, wealth, inventions, husbandry, science—all come to them by the operation of the laws, or by kings. All they have to do is to be passive. It is on this ground that Bossuet takes exception when Diodorus accuses the Egyptians of rejecting wrestling and music. “How is that possible,” says he, “since these arts were invented by Trismegistus?”

It is the same with the Persians:

One of the first cares of the prince was to encourage agriculture. . . . As there were posts established for the regulation of the armies, so there were offices for the superintending of rural works. . . . The respect with which the Persians were inspired for royal authority was excessive.

The Greeks, although full of mind, were no less strangers to their own responsibilities; so much so, that of themselves, like dogs and horses, they would not have ventured upon the most simple games. In a classical sense, it is an undisputed thing that everything comes to the people from without.

The Greeks, naturally full of spirit and courage, had been early cultivated by kings and colonies who had come from Egypt. From them they had learned the exercises of the body, foot races, and horse and chariot races. . . . The best thing that the Egyptians had taught them was to become docile, and to allow themselves to be formed by the laws for the public good.

FÉNELON—Reared in the study and admiration of antiquity and a witness of the power of Louis XIV, Fenelon naturally adopted the idea that mankind should be passive, and that its misfortunes and its prosperities, its virtues and its vices, are caused by the external influence that is exercised upon it by the law, or by the makers of the law. Thus, in his *Utopia of Salentum*, he brings the men, with their interests, their faculties, their desires, and their possessions, under the absolute direction of the legislator. Whatever the subject may be, they themselves have no voice in it—the prince judges for them. The nation is just a shapeless mass,

of which the prince is the soul. In him resides the thought, the foresight, the principle of all organization, of all progress; on him, therefore, rests all the responsibility.

In proof of this assertion, I might transcribe the whole of the tenth book of *Telemachus*. I refer the reader to it, and shall content myself with quoting some passages taken at random from this celebrated work, to which, in every other respect, I am the first to render justice.

With the astonishing credulity that characterizes the classics, Fénelon, against the authority of reason and of facts, admits the general felicity of the Egyptians, and attributes it, not to their own wisdom, but to that of their kings:

We could not turn our eyes to the two shores, without perceiving rich towns and country seats, agreeably situated; fields that were covered every year, without intermission, with golden crops; meadows full of flocks; laborers bending under the weight of fruits that the earth lavished on its cultivators; and shepherds who made the echoes around repeat the soft sounds of their pipes and flutes. "Happy," said Mentor, "is that people who is governed by a wise king." . . . Mentor afterwards desired me to remark the happiness and abundance that was spread over all the country of Egypt, where twenty-two thousand cities might be counted. He admired the excellent police regulations of the cities; the justice administered in favor of the poor against the rich; the good education of the children, who were accustomed to obedience, labor, and the love of arts and letters; the exactness with which all the ceremonies of religion were performed; the disinterestedness, the desire of honor, the fidelity to men, and the fear of the gods, with which every father inspired his children. He could not sufficiently admire the prosperous state of the country. "Happy" said he, "is the people whom a wise king rules in such a manner."

Fénelon's idyll on Crete is still more fascinating. Mentor is made to say:

All that you will see in this wonderful island is the result of the laws of Minos. The education that the children receive renders the body healthy and robust. They are accustomed,

from the first, to a frugal and laborious life; it is supposed that all the pleasures of sense enervate the body and the mind; no other pleasure is presented to them but that of being invincible by virtue, that of acquiring much glory . . . there they punish three vices that go unpunished amongst other people—ingratitude, dissimulation, and avarice. As to pomp and dissipation, there is no need to punish these, for they are unknown in Crete. . . . No costly furniture, no magnificent clothing, no delicious feasts, no gilded palaces are allowed.

It is thus that Mentor prepares his scholar to mould and manipulate, doubtless with the most philanthropic intentions, the people of Ithaca, and, to confirm him in these ideas, he gives him the example of Salentum.

So we receive our first political notions. We are taught to treat men very much as Oliver de Serres teaches farmers to manage and to mix the soil.

MONTESQUIEU—

To sustain the spirit of commerce, it is necessary that all the laws should favor it; that these same laws, by their regulations in dividing the fortunes in proportion as commerce enlarges them, should place every poor citizen in sufficiently easy circumstances to enable him to work like the others, and every rich citizen in such mediocrity that he must work, in order to retain or to acquire.

Thus the laws are to dispose of all fortunes.

Although in a democracy, real equality be the soul of the State, yet it is so difficult to establish that an extreme exactness in this matter would not always be desirable. It is sufficient that a census be established to reduce or fix the differences to a certain point, after which, it is for particular laws to equalize, as it were, the inequality by burdens imposed upon the rich and reliefs granted to the poor.

Here, again, we see the equalization of fortunes by law, that is, by force.

There were, in Greece, two kinds of republics. One was military, as Sparta; the other commercial, as Athens. In the one it was wished (by whom?) that the citizens should be idle: in the other, the love of labor was encouraged.

It is worth our while to pay a little attention to the extent of genius required by these legislators, that we may see how, by confounding all the virtues, they showed their wisdom to the world. Lycurgus, blending theft with the spirit of justice, the hardest slavery with extreme liberty, the most atrocious sentiments with the greatest moderation, gave stability to his city. He seemed to deprive it of all its resources, arts, commerce, money, and walls; there was ambition without the hope of rising; there were natural sentiments where the individual was neither child, nor husband, nor father. Chastity even was deprived of modesty. By this road Sparta was led on to grandeur and to glory.

The phenomenon that we observe in the institutions of Greece has been seen in the midst of the degeneracy and corruption of our modern times. An honest legislator has formed a people where probity has appeared as natural as bravery among the Spartans. Mr. Penn is a true Lycurgus, and although the former had peace for his object, and the latter war, they resemble each other in the singular path along which they have led their people, in their influence over free men, in the prejudices which they have overcome, the passions they have subdued.

Paraguay furnishes us with another example. Society has been accused of the crime of regarding the pleasure of commanding as the only good of life; but it will always be a noble thing to govern men by making them happy.

Those who desire to form similar institutions will establish community of property, as in the republic of Plato, the same reverence as he enjoined for the gods, separation from strangers for the preservation of morality, and make the city and not the citizens create commerce: they should give our arts without our luxury, our wants without our desires.

Vulgar infatuation may exclaim, if it likes, “It is Montesquieu! magnificent! sublime!” I am not afraid to express my opinion, and to say:

What! You have the gall to call that fine? It is frightful! It is abominable! And these extracts, which I might multiply, show that according to Montesquieu, the persons, the liberties, the property, mankind itself, are nothing but grist for the mill of the sagacity of lawgivers.

ROUSSEAU—Although this politician, the paramount authority of the Democrats, makes the social edifice rest upon the general will, no one has so completely admitted the hypothesis of the entire passiveness of human nature in the presence of the lawgiver:

If it is true that a great prince is a rare thing, how much more so must a great lawgiver be? The former has only to follow the pattern proposed to him by the latter. This latter is the engineer who invents the machine; the former is merely the workman who sets it in motion.

And what part have men to act in all this? That of the machine, which is set in motion; or rather, are they not the brute matter of which the machine is made? Thus, between the legislator and the prince, between the prince and his subjects, there are the same relations as those that exist between the agricultural writer and the agriculturist, the agriculturist and the clod. At what a vast height, then, is the politician placed, who rules over legislators themselves and teaches them their trade in such imperative terms as the following:

Would you give consistency to the State? Bring the extremes together as much as possible. Suffer neither wealthy persons nor beggars.

If the soil is poor and barren, or the country too much confined for the inhabitants, turn to industry and the arts, whose productions you will exchange for the provisions which you require. . . . On a good soil, if you are short of inhabitants, give all your attention to agriculture, which multiplies men, and banish the arts, which only serve to

depopulate the country. . . . Pay attention to extensive and convenient coasts. Cover the sea with vessels, and you will have a brilliant and short existence. If your seas wash only inaccessible rocks, let the people be barbarous, and eat fish; they will live more quietly, perhaps better, and most certainly more happily. In short, besides those maxims which are common to all, every people has its own particular circumstances, which demand a legislation peculiar to itself.

It was thus that the Hebrews formerly, and the Arabs more recently, had religion for their principal object; that of the Athenians was literature; that of Carthage and Tyre, commerce; of Rhodes, naval affairs; of Sparta, war; and of Rome, virtue. The author of the "Spirit of Laws" has shown the art by which the legislator should frame his institutions towards each of these objects. . . . But if the legislator, mistaking his object, should take up a principle different from that which arises from the nature of things; if one should tend to slavery, and the other to liberty; if one to wealth, and the other to population; one to peace, and the other to conquests; the laws will insensibly become enfeebled, the Constitution will be impaired, and the State will be subject to incessant agitations until it is destroyed, or becomes changed, and invincible Nature regains her empire.

But if Nature is sufficiently invincible to regain its empire, why does not Rousseau admit that it had no need of the legislator to gain its empire from the beginning? Why does he not allow that by obeying their own impulse, men would of themselves apply agriculture to a fertile district, and commerce to extensive and commodious coasts without the interference of a Lycurgus, a Solon, or a Rousseau, who would undertake it at the risk of deceiving themselves?

Be that as it may, we see with what a terrible responsibility Rousseau invests inventors, institutors, conductors, and manipulators of societies. He is, therefore, very exacting with regard to them.

He who dares to undertake the institutions of a people, ought to feel that he can, as it were, transform every individual, who is by himself a perfect and solitary whole, receiving his life

and being from a larger whole of which he forms a part; he must feel that he can change the constitution of man, to fortify it, and substitute a social and moral existence for the physical and independent one that we have all received from nature. In a word, he must deprive man of his own powers, to give him others that are foreign to him.

Poor human nature! What would become of its dignity if it were entrusted to the disciples of Rousseau?

RAYNAL—

The climate, that is, the air and the soil, is the first element for the legislator. His resources prescribe to him his duties. First, he must consult his local position. A population dwelling upon maritime shores must have laws fitted for navigation. . . . If the colony is located in an inland region, a legislator must provide for the nature of the soil, and for its degree of fertility. . . .

It is more especially in the distribution of property that the wisdom of legislation will appear. As a general rule, and in every country, when a new colony is founded, land should be given to each man, sufficient for the support of his family. . . .

In an uncultivated island, which you are colonizing with children, it will only be needful to let the germs of truth expand in the developments of reason! . . . But when you establish old people in a new country, the skill consists in only allowing it those injurious opinions and customs which it is impossible to cure and correct. If you wish to prevent them from being perpetuated, you will act upon the rising generation by a general and public education of the children. A prince or legislator ought never to found a colony without previously sending wise men there to instruct the youth.... In a new colony, every facility is open to the precautions of the legislator who desires to purify the tone and the manners of the people. If he has genius and virtue, the lands and the men that are at his disposal will inspire his soul with a plan of society that a writer can only vaguely trace, and in a way that would be subject to the instability of all hypotheses, which are varied and complicated by an infinity of circumstances too difficult to foresee and to combine.

One would think it was a professor of agriculture who was saying to his pupils

The climate is the only rule for the agriculturist. His resources dictate to him his duties. The first thing he has to consider is his local position. If he is on a clayey soil, he must do so and so. If he has to contend with sand, this is the way in which he must set about it. Every facility is open to the agriculturist who wishes to clear and improve his soil. If he only has the skill, the manure which he has at his disposal will suggest to him a plan of operation, which a professor can only vaguely trace, and in a way that would be subject to the uncertainty of all hypotheses, which vary and are complicated by an infinity of circumstances too difficult to foresee and to combine.

But, oh! sublime writers, deign to remember sometimes that this clay, this sand, this manure, of which you are disposing in so arbitrary a manner, are men, your equals, intelligent and free beings like yourselves, who have received from God, as you have, the faculty of seeing, of foreseeing, of thinking, and of judging for themselves!

MABLY—(He is supposing the laws to be worn out by time and by the neglect of security, and continues thus):

Under these circumstances, we must be convinced that the bonds of Government are slack. Give them a new tension (it is the reader who is addressed), and the evil will be remedied. . . . Think less of punishing the faults than of encouraging the virtues that you want. By this method you will bestow upon your republic the vigor of youth. Through ignorance of this, a free people has lost its liberty! But if the evil has made so much way that the ordinary magistrates are unable to remedy it effectually, have recourse to an extraordinary magistracy, whose time should be short, and its power considerable. The imagination of the citizens requires to be impressed.

In this style he goes on through twenty volumes.

There was a time when, under the influence of teaching like this, which is the foundation of classical education, everyone was

for placing himself beyond and above mankind, for the sake of arranging, organizing, and instituting it in his own way.

CONDILLAC—

Take upon yourself, my lord, the character of Lycurgus or of Solon. Before you finish reading this essay, amuse yourself with giving laws to some wild people in America or in Africa. Establish these roving men in fixed dwellings; teach them to keep flocks. . . . Endeavor to develop the social qualities that nature has implanted in them. . . . Make them begin to practice the duties of humanity. . . . Cause the pleasures of the passions to become distasteful to them by punishments, and you will see these barbarians, with every plan of your legislation, lose a vice and gain a virtue.

All these people have had laws. But few among them have been happy. Why is this? Because legislators have almost always been ignorant of the object of society, which is to unite families by a common interest.

Impartiality in law consists in two things, in establishing equality in the fortunes and in the dignity of the citizens. . . . In proportion to the degree of equality established by the laws, the dearer will they become to every citizen. How can avarice, ambition, dissipation, idleness, sloth, envy, hatred, or jealousy agitate men who are equal in fortune and dignity, and to whom the laws leave no hope of disturbing their equality?

What has been told you of the republic of Sparta ought to enlighten you on this question. No other State has had laws more in accordance with the order of nature or of equality.

It is not to be wondered at that the seventeenth and eighteenth centuries should have looked upon the human race as inert matter, ready to receive everything—form, figure, impulse, movement, and life, from a great prince, or a great legislator, or a great genius. These ages were reared in the study of antiquity; and antiquity presents everywhere—in Egypt, Persia, Greece, and Rome, the spectacle of a few men molding mankind according to their fancy, and mankind to this end enslaved by force or by

imposture. And what does this prove? That because men and society are improvable, error, ignorance, despotism, slavery, and superstition must be more prevalent in early times. The mistake of the writers quoted above is not that they have asserted this fact, but that they have proposed it as a rule for the admiration and imitation of future generations. Their mistake has been, with an inconceivable absence of discernment, and upon the faith of a puerile conventionalism, that they have admitted what is inadmissible, viz., the grandeur, dignity, morality, and well-being of the artificial societies of the ancient world; they have not understood that time produces and spreads enlightenment; and that in proportion to the increase of enlightenment, right ceases to be upheld by force, and society regains possession of herself.

And, in fact, what is the political work that we are endeavoring to promote? It is no other than the instinctive effort of every people toward liberty. And what is liberty, whose name can make every heart beat, and which can agitate the world, but the union of all liberties, the liberty of conscience, of education, of association, of the press, of movement, of labor, and of exchange; in other words, the free exercise, for all, of all the inoffensive faculties; and again, in other words, the destruction of all despotisms, even of legal despotism, and the reduction of law to its only rational sphere, which is to regulate the individual right of legitimate defense, or to repress injustice?

This tendency of the human race, it must be admitted, is greatly thwarted, particularly in our country, by the fatal disposition, resulting from classical teaching and common to all politicians, of placing themselves beyond mankind, to arrange, organize, and regulate it, according to their fancy.

For whilst society is struggling to realize liberty, the great men who place themselves at its head, imbued with the principles of the seventeenth and eighteenth centuries, think only of subjecting it to the philanthropic despotism of their social inventions, and making it bear with docility, according to the expression of Rousseau, the yoke of public felicity as pictured in their own imaginations.

This was particularly the case in 1789. No sooner was the old system destroyed than society was to be submitted to other artificial arrangements, always with the same starting point—the omnipotence of the law.

SAINT-JUST—

The legislator commands the future. It is for him to will for the good of mankind. It is for him to make men what he wishes them to be.

ROBESPIERRE—

The function of Government is to direct the physical and moral powers of the nation toward the object of its institution.

BILLAUD VARENNES—

A people who are to be restored to liberty must be formed anew. Ancient prejudices must be destroyed, antiquated customs changed, depraved affections corrected, inveterate vices eradicated. For this, a strong force and a vehement impulse will be necessary. . . . Citizens, the inflexible austerity of Lycurgus created the firm basis of the Spartan republic. The feeble and trusting disposition of Solon plunged Athens into slavery. This parallel contains the whole science of Government.

LEPELLETIER—

Considering the extent of human degradation, I am convinced—of the necessity of effecting an entire regeneration of the race, and, if I may so express myself, of creating a new people.

Men, therefore, are nothing but raw material. It is not for them to will their own improvement. They are not capable of it; according to Saint-Just, it is only the legislator who is. Men are merely to be what he wills that they should be. According to Robespierre, who copies Rousseau literally, the legislator is to begin by assigning the aim of the institutions of the nation. After

this, the Government has only to direct all its physical and moral forces toward this end. All this time the nation itself is to remain perfectly passive; and Billaud Varennes would teach us that it ought to have no prejudices, affections, nor wants, but such as are authorized by the legislator. He even goes so far as to say that the inflexible austerity of a man is the basis of a republic.

We have seen that, in cases where the evil is so great that the ordinary magistrates are unable to remedy it, Mably recommends a dictatorship, to promote virtue. "Have recourse," says he, "to an extraordinary magistracy, whose time shall be short, and his power considerable. The imagination of the people requires to be impressed." This doctrine has not been neglected. Listen to Robespierre:

The principle of the Republican Government is virtue, and the means to be adopted, during its establishment, is terror. We want to substitute, in our country, morality for self-indulgence, probity for honor, principles for customs, duties for decorum, the empire of reason for the tyranny of fashion, contempt of vice for contempt of misfortune, pride for insolence, greatness of soul for vanity, love of glory for love of money, good people for good company, merit for intrigue, genius for wit, truth for glitter, the charm of happiness for the weariness of pleasure, the greatness of man for the littleness of the great, a magnanimous, powerful, happy people, for one that is easy, frivolous, degraded; that is to say, we would substitute all the virtues and miracles of a republic for all the vices and absurdities of monarchy.

At what a vast height above the rest of mankind does Robespierre place himself here! And observe the arrogance with which he speaks. He is not content with expressing a desire for a great renovation of the human heart, he does not even expect such a result from a regular Government. No; he intends to effect it himself, and by means of terror. The object of the discourse from which this puerile and laborious mass of antithesis is extracted, was to exhibit the principles of morality that ought to direct a revolutionary Government. Moreover, when Robespierre asks for a dictatorship, it is not merely for the purpose of repelling a foreign

enemy, or of putting down factions; it is that he may establish, by means of terror and as a preliminary to the operation of the Constitution, his own principles of morality. He pretends to nothing short of extirpating from the country by means of terror, self-interest, honor, customs, decorum, fashion, vanity, the love of money, good company, intrigue, wit, luxury, and misery. It is not until after he, Robespierre, shall have accomplished these miracles, as he rightly calls them, that he will allow the law to regain her empire. Truly it would be well if these visionaries, who think so much of themselves and so little of mankind, who want to renew everything, would only be content with trying to reform themselves, the task would be arduous enough for them. In general, however, these gentlemen, the reformers, legislators, and politicians, do not desire to exercise an immediate despotism over mankind. No, they are too moderate and too philanthropic for that. They only contend for the despotism, the absolutism, the omnipotence of the law. They aspire only to make the law.

To show how universal this strange disposition has been in France, I had need not only to have copied the whole of the works of Mably, Raynal, Rousseau, Fenelon, and to have made long extracts from Bossuet and Montesquieu, but to have given the entire transactions of the sittings of the Convention. I shall do no such thing, however, but merely refer the reader to them.

No wonder this idea suited Bonaparte so well. He embraced it with ardor, and put it in practice with energy. Playing the part of a chemist, Europe was to him the material for his experiments. But this material reacted against him. More than half undeceived, Bonaparte, at St. Helena, seemed to admit that there is an initiative in every people, and he became less hostile to liberty. Yet this did not prevent him from giving this lesson to his son in his will—“To govern is to diffuse morality, education, and well-being.”

After all this, I hardly need show, by fastidious quotations, the opinions of Morelly, Babeuf, Owen, Saint Simon, and Fourier. I shall confine myself to a few extracts from Louis Blanc’s book on the organization of labor.

“In our project, society receives the impulse of power.”

In what does the impulse that power gives to society consist? In imposing upon it the project of Mr. Louis Blanc.

On the other hand, society is the human race. The human race, then, is to receive its impulse from Mr. Louis Blanc.

It is at liberty to do so or not, it will be said. Of course the human race is at liberty to take advice from anybody, whoever it may be. But this is not the way in which Mr. Louis Blanc understands the thing. He means that his project should be converted into law, and consequently forcibly imposed by power.

In our project, the State has only to give a legislation to labor, by means of which the industrial movement may and ought to be accomplished in all liberty. It (the State) merely places society on an incline (that is all) that it may descend, when once it is placed there, by the mere force of things, and by the natural course of the established mechanism.

But what is this incline? One indicated by Mr. Louis Blanc. Does it not lead to an abyss? No, it leads to happiness. Why, then, does not society go there of itself? Because it does not know what it wants, and it requires an impulse. What is to give it this impulse? Power. And who is to give the impulse to power? The inventor of the machine, Mr. Louis Blanc.

We shall never get out of this circle—mankind passive, and a great man moving it by the intervention of the law. Once on this incline, will society enjoy something like liberty? Without a doubt. And what is liberty?

Once for all: liberty consists not only in the right granted, but in the power given to man to exercise, to develop his faculties under the empire of justice, and under the protection of the law.

And this is no vain distinction; there is a deep meaning in it, and its consequences are imponderable. For when once it is admitted that man, to be truly free, must have the power to exercise and develop his faculties, it follows that every member of society has a claim upon it for such education as shall enable his faculties to display themselves, and for the tools of labor, without which human activity can find no

scope. Now, by whose intervention is society to give to each of its members the requisite education and the necessary tools of labor, unless by that of the State?

Thus, liberty is power. In what does this power consist? In possessing education and tools of labor. Who is to give education and tools of labor? Society, who owes them. By whose intervention is society to give tools of labor to those who do not possess them? By the intervention of the State. From whom is the State to obtain them?

It is for the reader to answer this question, and to notice whither all this tends.

One of the strangest phenomena of our time, and one that will probably be a matter of astonishment to our descendants, is the doctrine which is founded upon this triple hypothesis: the radical passiveness of mankind—the omnipotence of the law—the infallibility of the legislator: this is the sacred symbol of the party that proclaims itself exclusively democratic.

It is true that it professes also to be social.

So far as it is democratic, it has an unlimited faith in mankind.

So far as it is social, it places mankind beneath the mud.

Are political rights under discussion? Is a legislator to be chosen? Oh, then the people possess science by instinct: they are gifted with an admirable discernment; their will is always right; the general will cannot err. Suffrage cannot be too universal. Nobody is under any responsibility to society. The will and the capacity to choose well are taken for granted. Can the people be mistaken? Are we not living in an age of enlightenment? What! Are the people to be forever led about by the nose? Have they not acquired their rights at the cost of effort and sacrifice? Have they not given sufficient proof of intelligence and wisdom? Are they not arrived at maturity? Are they not in a state to judge for themselves? Do they not know their own interest? Is there a man or a class who would dare to claim the right of putting himself in the place of the people, of deciding and of acting for them? No, no; the people would be free, and they shall be so. They wish to conduct their own affairs, and they shall do so.

But when once the legislator is duly elected, then indeed the style of his speech alters. The nation is sent back into passiveness, inertness, nothingness, and the legislator takes possession of omnipotence. It is for him to invent, for him to direct, for him to impel, for him to organize. Mankind has nothing to do but to submit; the hour of despotism has struck. And we must observe that this is decisive; for the people, just before so enlightened, so moral, so perfect, have no inclinations at all, or, if they have any, these all lead them downward toward degradation. And yet they ought to have a little liberty! But are we not assured by Mr. Considerant that liberty leads fatally to monopoly? Are we not told that liberty is competition? and that competition, according to Mr. Louis Blanc, is a system of extermination for the people, and of ruination for trade? For that reason people are exterminated and ruined in proportion as they are free—take, for example, Switzerland, Holland, England, and the United States? Does not Mr. Louis Blanc tell us again that competition leads to monopoly, and that, for the same reason, cheapness leads to exorbitant prices? That competition tends to drain the sources of consumption, and diverts production to a destructive activity? That competition forces production to increase, and consumption to decrease—whence it follows that free people produce for the sake of not consuming; that there is nothing but oppression and madness among them; and that it is absolutely necessary for Mr. Louis Blanc to see to it?

What sort of liberty should be allowed to men? Liberty of conscience?—But we should see them all profiting by the permission to become atheists. Liberty of education?—But parents would be paying professors to teach their sons immorality and error; besides, if we are to believe Mr. Thiers, education, if left to the national liberty, would cease to be national, and we should be educating our children in the ideas of the Turks or Hindus, instead of which, thanks to the legal despotism of the universities, they have the good fortune to be educated in the noble ideas of the Romans. Liberty of labor? But this is only competition, whose effect is to leave all products unconsumed, to exterminate the

people, and to ruin the tradesmen. The liberty of exchange? But it is well known that the protectionists have shown, over and over again, that a man will inevitably be ruined when he exchanges freely, and that to become rich it is necessary to exchange without liberty. Liberty of association? But according to the socialist doctrine, liberty and association exclude each other, for the liberty of men is attacked just to force them to associate.

You must see, then, that the socialist democrats cannot in conscience allow men any liberty, because, by their own nature, they tend in every instance to all kinds of degradation and demoralization.

We are therefore left to conjecture, in this case, upon what foundation universal suffrage is claimed for them with so much importunity.

The pretensions of organizers suggest another question, which I have often asked them, and to which I am not aware that I ever received an answer: Since the natural tendencies of mankind are so bad that it is not safe to allow them liberty, how comes it to pass that the tendencies of organizers are always good? Do not the legislators and their agents form a part of the human race? Do they consider that they are composed of different materials from the rest of mankind? They say that society, when left to itself, rushes to inevitable destruction, because its instincts are perverse. They presume to stop it in its downward course, and to give it a better direction. They have, therefore, received from heaven, intelligence and virtues that place them beyond and above mankind: let them show their title to this superiority. They would be our shepherds, and we are to be their flock. This arrangement presupposes in them a natural superiority, the right to which we are fully justified in calling upon them to prove.

You must observe that I am not contending against their right to invent social combinations, to propagate them, to recommend them, and to try them upon themselves, at their own expense and risk; but I do dispute their right to impose them upon us through the medium of the law, that is, by force and by public taxes.

I would not insist upon the Cabetists, the Fourierists, the Proudhonians, the Academics, and the Protectionists renouncing

their own particular ideas; I would only have them renounce the idea that is common to them all—viz., that of subjecting us by force to their own categories and rankings to their social laboratories, to their ever-inflating bank, to their Greco-Roman morality, and to their commercial restrictions. I would ask them to allow us the faculty of judging of their plans, and not to oblige us to adopt them if we find that they hurt our interests or are repugnant to our consciences.

To presume to have recourse to power and taxation, besides being oppressive and unjust, implies further, the pernicious assumption that the organized is infallible, and mankind incompetent.

And if mankind is not competent to judge for itself, why do they talk so much about universal suffrage?

This contradiction in ideas is unhappily to be found also in facts; and whilst the French nation has preceded all others in obtaining its rights, or rather its political claims, this has by no means prevented it from being more governed, and directed, and imposed upon, and fettered, and cheated, than any other nation. It is also the one, of all others, where revolutions are constantly to be dreaded, and it is perfectly natural that it should be so.

So long as this idea is retained, which is admitted by all our politicians, and so energetically expressed by Mr. Louis Blanc in these words—"Society receives its impulse from power," so long as men consider themselves as capable of feeling, yet passive—incapable of raising themselves by their own discernment and by their own energy to any morality, or well-being, and while they expect everything from the law; in a word, while they admit that their relations with the State are the same as those of the flock with the shepherd, it is clear that the responsibility of power is immense. Fortune and misfortune, wealth and destitution, equality and inequality all proceed from it. It is charged with everything, it undertakes everything, it does everything; therefore it has to answer for everything. If we are happy, it has a right to claim our gratitude; but if we are miserable, it alone must bear the blame. Are not our persons and property in fact, at its disposal?

Is not the law omnipotent? In creating the educational monopoly, it has undertaken to answer the expectations of fathers of families who have been deprived of liberty; and if these expectations are disappointed, whose fault is it?

In regulating industry, it has undertaken to make it prosper, otherwise it would have been absurd to deprive it of its liberty; and if it suffers, whose fault is it? In pretending to adjust the balance of commerce by the game of tariffs, it undertakes to make commerce prosper; and if, so far from prospering, it is destroyed, whose fault is it? In granting its protection to maritime armaments in exchange for their liberty, it has undertaken to render them self-sufficient; if they become burdensome, whose fault is it?

Thus, there is not a grievance in the nation for which the Government does not voluntarily make itself responsible. Is it any wonder that every failure threatens to cause a revolution? And what is the remedy proposed? To extend indefinitely the dominion of the law, i.e., the responsibility of Government. But if the Government undertakes to raise and to regulate wages, and is not able to do it; if it undertakes to assist all those who are in want, and is not able to do it; if it undertakes to provide work for every laborer, and is not able to do it; if it undertakes to offer to all who wish to borrow, easy credit, and is not able to do it; if, in words that we regret should have escaped the pen of Mr. de Lamartine, “the State considers that its mission is to enlighten, to develop, to enlarge, to strengthen, to spiritualize, and to sanctify the soul of the people”—if it fails in this, is it not obvious that after every disappointment, which, alas! is more than probable, there will be a no less inevitable revolution?

I shall now resume the subject by remarking, that immediately after the economical part⁴ of the question, and before the political part, a leading question presents itself. It is the following:

⁴Political economy precedes politics: the former has to discover whether human interests are harmonious or antagonistic, a fact which must be settled before the latter can determine the prerogatives of Government.

What is law? What ought it to be? What is its domain? What are its limits? Where, in fact, does the prerogative of the legislator stop?

I have no hesitation in answering, Law is common force organized to prevent injustice—in short, Law is Justice.

It is not true that the legislator has absolute power over our persons and property, since they pre-exist, and his work is only to secure them from injury.

It is not true that the mission of the law is to regulate our consciences, our ideas, our will, our education, our sentiments, our works, our exchanges, our gifts, our enjoyments. Its mission is to prevent the rights of one from interfering with those of another, in any one of these things.

Law, because it has force for its necessary sanction, can only have the domain of force, which is justice.

And as every individual has a right to have recourse to force only in cases of lawful defense, so collective force, which is only the union of individual forces, cannot be rationally used for any other end.

The law, then, is solely the organization of individual rights that existed before law.

Law is justice.

So far from being able to oppress the people, or to plunder their property, even for a philanthropic end, its mission is to protect the people, and to secure to them the possession of their property.

It must not be said, either, that it may be philanthropic, so long as it abstains from all oppression; for this is a contradiction. The law cannot avoid acting upon our persons and property; if it does not secure them, then it violates them if it touches them.

The law is justice.

Nothing can be more clear and simple, more perfectly defined and bounded, or more visible to every eye; for justice is a given quantity, immutable and unchangeable, and which admits of neither increase or diminution.

Depart from this point, make the law religious, fraternal, equalizing, industrial, literary, or artistic, and you will be lost in vagueness and uncertainty; you will be upon unknown ground, in a forced Utopia, or, what is worse, in the midst of a multitude of contending Utopias, each striving to gain possession of the law, and to impose it upon you; for fraternity and philanthropy have no fixed limits, as justice has. Where will you stop? Where is the law to stop? One person, Mr. de Saint Cricq, will only extend his philanthropy to some of the industrial classes, and will require the law to slight the consumers in favor of the producers. Another, like Mr. Considerant, will take up the cause of the working classes, and claim for them by means of the law, at a fixed rate, clothing, lodging, food, and everything necessary for the support of life. A third, Mr. Louis Blanc, will say, and with reason, that this would be an incomplete fraternity, and that the law ought to provide them with tools of labor and education. A fourth will observe that such an arrangement still leaves room for inequality, and that the law ought to introduce into the most remote hamlets luxury, literature, and the arts. This is the high road to communism; in other words, legislation will be—as it now is—the battlefield for everybody's dreams and everybody's covetousness.

Law is justice.

In this proposition we represent to ourselves a simple, immovable Government. And I defy anyone to tell me whence the thought of a revolution, an insurrection, or a simple disturbance could arise against a public force confined to the repression of injustice. Under such a system, there would be more well-being, and this well-being would be more equally distributed; and as to the sufferings inseparable from humanity, no one would think of accusing the Government of them, for it would be as innocent of them as it is of the variations of the temperature. Have the people ever been known to rise against the court of appeals, or assail the justices of the peace, for the sake of claiming the rate of wages, free credit, tools of labor, the advantages of the tariff, or the social workshop? They know perfectly well that these matters are beyond the jurisdiction of the justices of the peace, and they

would soon learn that they are not within the jurisdiction of the law quite as much.

But if the law were to be made upon the principle of fraternity, if it were to be proclaimed that from it proceed all benefits and all evils—that it is responsible for every individual grievance and for every social inequality—then you open the door to an endless succession of complaints, irritations, troubles, and revolutions.

Law is justice.

And it would be very strange if it could properly be anything else! Is not justice right? Are not rights equal? With what show of right can the law interfere to subject me to the social plans of Misters. Mimerel, de Melun, Thiers, or Louis Blanc, rather than to subject these gentlemen to my plans? Is it to be supposed that Nature has not bestowed upon me sufficient imagination to invent a Utopia too? Is it for the law to make choice of one amongst so many fancies, and to make use of the public force in its service?

Law is justice.

And let it not be said, as it continually is, that the law, in this sense, would be atheistic, individual, and heartless, and that it would mold mankind in its own image. This is an absurd conclusion, quite worthy of the governmental infatuation which sees mankind in the law.

What then? Does it follow that if we are free, we shall cease to act? Does it follow that if we do not receive an impulse from the law, we shall receive no impulse at all? Does it follow that if the law confines itself to securing to us the free exercise of our faculties, our faculties will be paralyzed? Does it follow, that if the law does not impose upon us forms of religion, modes of association, methods of education, rules for labor, directions for exchange, and plans for charity, we shall plunge headlong into atheism, isolation, ignorance, misery, and greed? Does it follow, that we shall no longer recognize the power and goodness of God; that we shall cease to associate together, to help each other,

to love and assist our unfortunate brethren, to study the secrets of nature, and to aspire after perfection in our existence?

Law is justice.

And it is under the law of justice, under the reign of right, under the influence of liberty, security, stability, and responsibility, that every man will attain to the fullness of his worth, to all the dignity of his being, and that mankind will accomplish with order and with calmness—slowly, it is true, but with certainty—the progress ordained for it.

I believe that my theory is correct; for whatever be the question upon which I am arguing, whether it be religious, philosophical, political, or economical; whether it affects well-being, morality, equality, right, justice, progress, responsibility, property, labor, exchange, capital, wages, taxes, population, credit, or Government; at whatever point of the scientific horizon I start from, I invariably come to the same thing—the solution of the social problem is in liberty.

And have I not experience on my side? Cast your eye over the globe. Which are the happiest, the most moral, and the most peaceable nations? Those where the law interferes the least with private activity; where the Government is the least felt; where individuality has the most scope, and public opinion the most influence; where the machinery of the administration is the least important and the least complicated; where taxation is lightest and least unequal, popular discontent the least excited and the least justifiable; where the responsibility of individuals and classes is the most active, and where, consequently, if morals are not in a perfect state, at any rate they tend incessantly to correct themselves; where transactions, meetings, and associations are the least fettered; where labor, capital, and production suffer the least from artificial displacements; where mankind follows most completely its own natural course; where the thought of God prevails the most over the inventions of men; those, in short, who realize the most nearly this idea that within the limits of right, all should flow from the free, perfectible, and voluntary action of man;

nothing be attempted by the law or by force, except the administration of universal justice.

I cannot avoid coming to this conclusion—that there are too many great men in the world; there are too many legislators, organizers, institutors of society, conductors of the people, fathers of nations, etc., etc. Too many persons place themselves above mankind, to rule and patronize it; too many persons make a trade of looking after it. It will be answered—“You yourself are occupied upon it all this time.” Very true. But it must be admitted that it is in another sense entirely that I am speaking; and if I join the reformers it is solely for the purpose of inducing them to relax their hold.

I am not doing as Vaucanson did with his automaton, but as a physiologist does with the human frame; I would study and admire it.

I am acting with regard to it in the spirit that animated a celebrated traveler. He found himself in the midst of a savage tribe. A child had just been born, and a crowd of soothsayers, magicians, and quacks were around it, armed with rings, hooks, and bandages. One said—“This child will never smell the perfume of a calumet, unless I stretch his nostrils.” Another said—“He will be without the sense of hearing, unless I draw his ears down to his shoulders.” A third said—“He will never see the light of the sun, unless I give his eyes an oblique direction.” A fourth said—“He will never be upright, unless I bend his legs.” A fifth said—“He will not be able to think, unless I press his brain.” “Stop!” said the traveler. “Whatever God does, is well done; do not pretend to know more than He; and as He has given organs to this frail creature, allow those organs to develop themselves, to strengthen themselves by exercise, use, experience, and liberty.”

God has implanted in mankind also all that is necessary to enable it to accomplish its destinies. There is a providential social physiology, as well as a providential human physiology. The social organs are constituted so as to enable them to develop harmoniously in the grand air of liberty. Away, then, with quacks and organizers! Away with their rings, and their chains, and their

hooks, and their pincers! Away with their artificial methods! Away with their social laboratories, their governmental whims, their centralization, their tariffs, their universities, their State religions, their inflationary or monopolizing banks, their limitations, their restrictions, their moralizations, and their equalization by taxation! And now, after having vainly inflicted upon the social body so many systems, let them end where they ought to have begun—reject all systems, and try liberty—liberty, which is an act of faith in God and in His work.

Vices are Not Crimes: A Vindication of Moral Liberty

By Lysander Spooner (1875)

I.

VICES are those acts by which a man harms himself or his property. Crimes are those acts by which one man harms the person or property of another.

Vices are simply the errors which a man makes in his search after his own happiness. Unlike crimes, they imply no malice toward others, and no interference with their persons or property.

In vices, the very essence of crime—that is, the design to injure the person or property of another—is wanting.

It is a maxim of the law that there can be no crime without a criminal intent; that is, without the intent to invade the person or property of another. But no one ever practises a vice with any such criminal intent. He practises his vice for his own happiness solely, and not from any malice toward others.

Unless this clear distinction between vices and crimes be made and recognized by the laws, there can be on earth no such thing as individual right, liberty, or property; no such things as the right of one man to the control of his own person and property, and the corresponding and co-equal rights of another man to the control of his own person and property.

For a government to declare a vice to be a crime, and to punish it as such, is an attempt to falsify the very nature of things. It is as absurd as it would be to declare truth to be falsehood, or falsehood truth.

II.

EVERY voluntary act of a man's life is either virtuous or vicious. That is to say, it is either in accordance, or in conflict, with those natural laws of matter and mind, on which his physical, mental, and emotional health and well-being depend. In other words, every act of his life tends, on the whole, either to his happiness, or to his unhappiness. No single act in his whole existence is indifferent.

Furthermore, each human being differs in his physical, mental, and emotional constitution, and also in the circumstances by which he is surrounded, from every other human being. Many acts, therefore, that are virtuous, and tend to happiness, in the case of one person, are vicious, and tend to unhappiness, in the case of another person.

Many acts, also, that are virtuous, and tend to happiness, in the case of one man, at one time, and under one set of circumstances, are vicious, and tend to unhappiness, in the case of the same man, at another time, and under other circumstances.

III.

TO know what actions are virtuous, and what vicious,— in other words, to know what actions tend, on the whole, to happiness, and what to unhappiness,— in the case of each and every man, in each and all the conditions in which they may severally be placed, is the profoundest and most complex study to which the greatest human mind ever has been, or ever can be, directed. It is, nevertheless, the constant study to which each and every man—the humblest in intellect as well as the greatest—is necessarily driven by the desires and necessities of his own existence. It is also the study in which each and every person, from his cradle to his grave, must necessarily form his own conclusions; because no one else knows or feels, or can know or feel, as he knows and feels, the desires and necessities, the hopes, and fears, and impulses of his own nature, or the pressure of his own circumstances.

IV.

IT is not often possible to say of those acts that are called vices, that they really are vices, except in degree. That is, it is difficult to say of any actions, or courses of action, that are called vices, that they really would have been vices, if they had stopped short of a certain point. The question of virtue or vice, therefore, in all such cases, is a question of quantity and degree, and not of the intrinsic character of any

single act, by itself. This fact adds to the difficulty, not to say the impossibility, of any one's—except each individual for himself—drawing any accurate line, or anything like any accurate line, between virtue and vice; that is, of telling where virtue ends, and vice begins. And this is another reason why this whole question of virtue and vice should be left for each person to settle for himself.

V.

VICES are usually pleasurable, at least for the time being, and often do not disclose themselves as vices, by their effects, until after they have been practised for many years; perhaps for a lifetime. To many, perhaps most, of those who practise them, they do not disclose themselves as vices at all during life. Virtues, on the other hand, often appear so harsh and rugged, they require the sacrifice of so much present happiness, at least, and the results, which alone prove them to be virtues, are often so distant and obscure, in fact, so absolutely invisible to the minds of many, especially of the young, that, from the very nature of things, there can be no universal, or even general, knowledge that they are virtues. In truth, the studies of profound philosophers have been expended—if not wholly in vain, certainly with very small results—in efforts to draw the lines between the virtues and the vices.

If, then, it be so difficult, so nearly impossible, in most cases, to determine what is, and what is not, vice; and especially if it be so difficult, in nearly all cases, to determine where virtue ends, and vice begins; and if these questions, which no one can really and truly determine for anybody but himself, are not to be left free and open for experiment by all, each person is deprived of the highest of all his rights as a human being, to wit: his right to inquire, investigate, reason, try experiments, judge, and ascertain for himself, what is, to him, virtue, and what is, to him, vice; in other words, what, on the whole, conduces to his happiness, and what, on the whole, tends to his unhappiness. If this great right is not to be left free and open to all, then each man's whole right, as a reasoning human being, to "liberty and the pursuit of happiness," is denied him.

VI.

WE all come into the world in ignorance of ourselves, and of everything around us. By a fundamental law of our natures we are all constantly impelled by the desire of happiness, and the fear of pain. But we have everything to learn, as to what will give us happiness, and save us from pain. No two of us are wholly alike, either physically, mentally, or emotionally; or, consequently, in our physical, mental, or emotional requirements for the acquisition of happiness, and the avoidance of unhappiness. No one of us, therefore, can learn this indispensable lesson of happiness and unhappiness, of virtue and vice, for another. Each must learn it for himself. To learn it, he must be at liberty to try all experiments that commend themselves to his judgment. Some of his experiments succeed, and, because they succeed, are called virtues; others fail, and, because they fail, are called vices. He gathers wisdom from his failures, as well as from his successes; from his so-called vices, as from his so-called virtues. He gathers wisdom as much from his failures as from his successes; from his so-called vices, as from his so-called virtues. Both are necessary to his acquisition of that knowledge—of his own nature, and of the world around him, and of their adaptations or non-adaptations to each other—which shall show him how happiness is acquired, and pain avoided. And, unless he can be permitted to try these experiments to his own satisfaction, he is restrained from the acquisition of knowledge, and, consequently, from pursuing the great purpose and duty of his life.

VII.

A MAN is under no obligation to take anybody's word, or yield to anybody's authority, on a matter so vital to himself, and in regard to which no one else has, or can have, any such interest as he. He cannot, if he would, safely rely upon the opinions of other men, because he finds that the opinions of other men do not agree. Certain actions, or courses of action, have been practised by many millions of men, through successive generations, and have been held by them to be, on the whole, conducive to happiness, and therefore virtuous. Other men, in other ages or countries, or under other conditions, have held, as the result of their experience and observation, that these actions tended, on the whole, to unhappiness, and

were therefore vicious. The question of virtue or vice, as already remarked in a previous section, has also been, in most minds, a question of degree; that is, of the extent to which certain actions should be carried; and not of the intrinsic character of any single act, by itself. The questions of virtue and vice have therefore been as various, and, in fact, as infinite, as the varieties of mind, body, and condition of the different individuals inhabiting the globe. And the experience of ages has left an infinite number of these questions unsettled. In fact, it can scarcely be said to have settled any of them.

VIII.

IN the midst of this endless variety of opinion, what man, or what body of men, has the right to say, in regard to any particular action, or course of action, "We have tried this experiment, and determined every question involved in it? We have determined it, not only for ourselves, but for all others? And, as to all those who are weaker than we, we will coerce them to act in obedience to our conclusion? We will suffer no further experiment or inquiry by any one, and, consequently, no further acquisition of knowledge by anybody?"

Who are the men who have the right to say this? Certainly there are none such. The men who really do say it, are either shameless impostors and tyrants, who would stop the progress of knowledge, and usurp absolute control over the minds and bodies of their fellow-men; and are therefore to be resisted instantly, and to the last extent; or they are themselves too ignorant of their own weaknesses, and of their true relations to other men, to be entitled to any other consideration than sheer pity or contempt.

We know, however, that there are such men as these in the world. Some of them attempt to exercise their power only within a small sphere, to wit, upon their children, their neighbors, their townsmen, and their countrymen. Others attempt to exercise it on a larger scale. For example, an old man at Rome, aided by a few subordinates, attempts to decide all questions of virtue and vice; that is, of truth or falsehood, especially in matters of religion. He claims to know and teach what religious ideas and practices are conducive, or fatal, to a man's happiness, not only in this world, but in that which is to come. He claims to be miraculously inspired for the performance of this work; thus virtually acknowledging, like a sensible man, that nothing short of miraculous inspiration would qualify him for it. This miraculous inspiration, however, has been ineffectual to enable him to settle more than a very few questions. The most important of these are, first, that the highest religious virtue to which common mortals can attain, is an implicit belief in his (the pope's) infallibility! and, secondly, that the blackest vices of which they can be guilty are to believe and declare that he is only a man like the rest of them!

It required some fifteen or eighteen hundred years to enable him to reach definite conclusions on these two vital points. Yet it would seem that the first of these must necessarily be preliminary to his settlement of any other questions; because, until his own infallibility is determined, he can authoritatively decide nothing else. He has, however, heretofore attempted or pretended to settle a few others. And he may, perhaps, attempt or pretend to settle a few more in the future, if he shall continue to find anybody to listen to him. But his success, thus far, certainly does not encourage the belief that he will be able to settle all questions of virtue and vice, even in his peculiar department of religion, in time to meet the necessities of mankind. He, or his successors, will undoubtedly be compelled, at no distant day, to acknowledge that he has undertaken a task to which all his miraculous inspiration was inadequate; and that, of necessity, each human being must be left to settle all questions of this kind for himself. And it is not unreasonable to expect that all other popes, in other and lesser spheres, will some time have cause to come to the same conclusion. No one, certainly, not claiming supernatural inspiration, should undertake a task to which obviously nothing less than such inspiration is adequate. And, clearly, no one should surrender his own judgment to the teachings of others, unless he be first convinced that these others have something more than ordinary human knowledge on this subject.

If those persons, who fancy themselves gifted with both the power and the right to define and punish other men's vices, would but turn their thoughts inwardly, they would probably find that they have a great work to do at home; and that, when that shall have been completed, they will be little disposed to do more towards correcting the vices of others, than simply to give to others the results of their experience and

observation. In this sphere their labors may possibly be useful; but, in the sphere of infallibility and coercion, they will probably, for well-known reasons, meet with even less success in the future than such men have met with in the past.

IX.

IT is now obvious, from the reasons already given, that government would be utterly impracticable, if it were to take cognizance of vices, and punish them as crimes. Every human being has his or her vices. Nearly all men have a great many. And they are of all kinds; physiological, mental, emotional; religious, social, commercial, industrial, economical, etc., etc. If government is to take cognizance of any of these vices, and punish them as crimes, then, to be consistent, it must take cognizance of all, and punish all impartially. The consequence would be, that everybody would be in prison for his or her vices. There would be no one left outside to lock the doors upon those within. In fact, courts enough could not be found to try the offenders, nor prisons enough built to hold them. All human industry in the acquisition of knowledge, and even in acquiring the means of subsistence, would be arrested; for we should all be under constant trial or imprisonment for our vices. But even if it were possible to imprison all the vicious, our knowledge of human nature tells us that, as a general rule, they would be far more vicious in prison than they ever have been out of it.

X.

A GOVERNMENT that shall punish all vices impartially is so obviously an impossibility, that nobody was ever found, or ever will be found, foolish enough to propose it. The most that any one proposes is, that government shall punish some one, or at most a few, of what he esteems the grossest of them. But this discrimination is an utterly absurd, illogical, and tyrannical one. What right has any body of men to say, "The vices of other men we will punish; but our own vices nobody shall punish? We will restrain other men from seeking their own happiness, according to their own notions of it; but nobody shall restrain us from seeking our own happiness, according to our own notions of it? We will restrain other men from acquiring any experimental knowledge of what is conducive or necessary to their own happiness; but nobody shall restrain us from acquiring an experimental knowledge of what is conducive or necessary to our own happiness?"

Nobody but knaves or blockheads ever thinks of making such absurd assumptions as these. And yet, evidently, it is only upon such assumptions that anybody can claim the right to punish the vices of others, and at the same time claim exemption from punishment for his own.

XI.

SUCH a thing as a government, formed by voluntary association, would never have been thought of, if the object proposed had been the punishment of all vices, impartially; because nobody wants such an institution, or would voluntarily submit to it. But a government, formed by voluntary association, for the punishment of all crimes, is a reasonable matter; because everybody wants protection for himself against all crimes by others, and also acknowledges the justice of his own punishment, if he commits a crime.

XII.

IT is a natural impossibility that a government should have a right to punish men for their vices; because it is impossible that a government should have any rights, except such as the individuals composing it had previously had, as individuals. They could not delegate to a government any rights which they did not themselves possess. They could not contribute to the government any rights, except such as they themselves possessed as individuals. Now, nobody but a fool or an impostor pretends that he, as an individual, has a right to punish other men for their vices. But anybody and everybody have a natural right, as individuals, to punish other men for their crimes; for everybody has a natural right, not only to defend his own person and property against aggressors, but also to go to the assistance and defence of everybody

else, whose person or property is invaded. The natural right of each individual to defend his own person and property against an aggressor, and to go to the assistance and defence of every one else whose person or property is invaded, is a right without which men could not exist on the earth. And government has no rightful existence, except in so far as it embodies, and is limited by, this natural right of individuals. But the idea that each man has a natural right to sit in judgment on all his neighbor's actions, and decide what are virtues, and what are vices,—that is, what contribute to that neighbor's happiness, and what do not,—and to punish him for all that do not contribute to it, is what no one ever had the impudence or folly to assert. It is only those who claim that government has some rightful power, which no individual or individuals ever did, or ever could, delegate to it, that claim that government has any rightful power to punish vices.

It will do for a pope or a king—who claims to have received direct authority from Heaven, to rule over his fellow-men—to claim the right, as the vicegerent of God, to punish men for their vices; but it is a sheer and utter absurdity for any government, claiming to derive its power wholly from the grant of the governed, to claim any such power; because everybody knows that the governed never would grant it. For them to grant it would be an absurdity, because it would be granting away their own right to seek their own happiness; since to grant away their right to judge of what will be for their happiness, is to grant away all their right to pursue their own happiness.

XIII.

WE can now see how simple, easy, and reasonable a matter is a government for the punishment of crimes, as compared with one for the punishment of vices. Crimes are few, and easily distinguished from all other acts; and mankind are generally agreed as to what acts are crimes. Whereas vices are innumerable; and no two persons are agreed, except in comparatively few cases, as to what are vices. Furthermore, everybody wishes to be protected, in his person and property, against the aggressions of other men. But nobody wishes to be protected, either in his person or property, against himself; because it is contrary to the fundamental laws of human nature itself, that any one should wish to harm himself. He only wishes to promote his own happiness, and to be his own judge as to what will promote, and does promote, his own happiness. This is what every one wants, and has a right to, as a human being. And though we all make many mistakes, and necessarily must make them, from the imperfection of our knowledge, yet these mistakes are no argument against the right; because they all tend to give us the very knowledge we need, and are in pursuit of, and can get in no other way.

The object aimed at in the punishment of crimes, therefore, is not only wholly different from, but it is directly opposed to, that aimed at in the punishment of vices.

The object aimed at in the punishment of crimes is to secure, to each and every man alike, the fullest liberty he possibly can have—consistently with the equal rights of others—to pursue his own happiness, under the guidance of his own judgment, and by the use of his own property. On the other hand, the object aimed at in the punishment of vices, is to deprive every man of his natural right and liberty to pursue his own happiness, under the guidance of his own judgment, and by the use of his own property.

These two objects, then, are directly opposed to each other. They are as directly opposed to each other as are light and darkness, or as truth and falsehood, or as liberty and slavery. They are utterly incompatible with each other; and to suppose the two to be embraced in one and the same government, is an absurdity, an impossibility. It is to suppose the objects of a government to be to commit crimes, and to prevent crimes; to destroy individual liberty, and to secure individual liberty.

XIV.

FINALLY, on this point of individual liberty: Every man must necessarily judge and determine for himself as to what is conducive and necessary to, and what is destructive of, his own well-being; because, if he omits to perform this task for himself, nobody else can perform it for him. And nobody else will even attempt to perform it for him, except in very few cases. Popes, and priests, and kings will assume to perform it for him, in certain cases, if permitted to do so. But they will, in general, perform it only in so far as they can minister to their own vices and crimes, by doing it. They will, in general, perform it only in so far

as they can make him their fool and their slave. Parents, with better motives, no doubt, than the others, too often attempt the same work. But in so far as they practise coercion, or restrain a child from anything not really and seriously dangerous to himself, they do him a harm, rather than a good. It is a law of Nature that to get knowledge, and to incorporate that knowledge into his own being, each individual must get it for himself. Nobody, not even his parents, can tell him the nature of fire, so that he will really know it. He must himself experiment with it, and be burnt by it, before he can know it.

Nature knows, a thousand times better than any parent, what she designs each individual for, what knowledge he requires, and how he must get it. She knows that her own processes for communicating that knowledge are not only the best, but the only ones that can be effectual.

The attempts of parents to make their children virtuous are generally little else than attempts to keep them in ignorance of vice. They are little else than attempts to teach their children to know and prefer truth, by keeping them in ignorance of falsehood. They are little else than attempts to make them seek and appreciate health, by keeping them in ignorance of disease, and of everything that will cause disease. They are little else than attempts to make their children love the light, by keeping them in ignorance of darkness. In short, they are little else than attempts to make their children happy, by keeping them in ignorance of everything that causes them unhappiness.

In so far as parents can really aid their children in the latter's search after happiness, by simply giving them the results of their (the parents') own reason and experience, it is all very well, and is a natural and appropriate duty. But to practise coercion in matters of which the children are reasonably competent to judge for themselves, is only an attempt to keep them in ignorance. And this is as much a tyranny, and as much a violation of the children's right to acquire knowledge for themselves, and such knowledge as they desire, as is the same coercion when practised upon older persons. Such coercion, practised upon children, is a denial of their right to develop the faculties that Nature has given them, and to be what Nature designs them to be. It is a denial of their right to themselves, and to the use of their own powers. It is a denial of their right to acquire the most valuable of all knowledge, to wit, the knowledge that Nature, the great teacher, stands ready to impart to them.

The results of such coercion are not to make the children wise or virtuous, but to make them ignorant, and consequently weak and vicious; and to perpetuate through them, from age to age, the ignorance, the superstitions, the vices, and the crimes of the parents. This is proved by every page of the world's history.

Those who hold opinions opposite to these, are those whose false and vicious theologies, or whose own vicious general ideas, have taught them that the human race are naturally given to evil, rather than good; to the false, rather than the true; that mankind do not naturally turn their eyes to the light; that they love darkness, rather than light; and that they find their happiness only in those things that tend to their misery.

XV.

BUT these men, who claim that government shall use its power to prevent vice, will say, or are in the habit of saying, "We acknowledge the right of an individual to seek his own happiness in his own way, and consequently to be as vicious as he pleases; we only claim that government shall prohibit the sale to him of those articles by which he ministers to his vice."

The answer to this is, that the simple sale of any article whatever—independently of the use that is to be made of the article—is legally a perfectly innocent act. The quality of the act of sale depends wholly upon the quality of the use for which the thing is sold. If the use of anything is virtuous and lawful, then the sale of it, for that use, is virtuous and lawful. If the use is vicious, then the sale of it, for that use, is vicious. If the use is criminal, then the sale of it, for that use, is criminal. The seller is, at most, only an accomplice in the use that is to be made of the article sold, whether the use be virtuous, vicious, or criminal. Where the use is criminal, the seller is an accomplice in the crime, and punishable as such. But where the use is only vicious, the seller is only an accomplice in the vice, and is not punishable.

XVI.

BUT it will be asked, "Is there no right, on the part of government, to arrest the progress of those who are bent on self-destruction?"

The answer is, that government has no rights whatever in the matter, so long as these so-called vicious persons remain sane, *compos mentis*, capable of exercising reasonable discretion and self-control; because, so long as they do remain sane, they must be allowed to judge and decide for themselves whether their so-called vices really are vices; whether they really are leading them to destruction; and whether, on the whole, they will go there or not. When they shall become insane, *non compos mentis*, incapable of reasonable discretion or self-control, their friends or neighbors, or the government, must take care of them, and protect them from harm, and against all persons who would do them harm, in the same way as if their insanity had come upon them from any other cause than their supposed vices.

But because a man is supposed, by his neighbors, to be on the way to self-destruction, from his vices, it does not, therefore, follow that he is insane, *non compos mentis*, incapable of reasonable discretion and self-control, within the legal meaning of those terms. Men and women may be addicted to very gross vices, and to a great many of them,—such as gluttony, drunkenness, prostitution, gambling, prize-fighting, tobacco-chewing, smoking, and snuffing, opium-eating, corset-wearing, idleness, waste of property, avarice, hypocrisy, etc., etc.,—and still be sane, *compos mentis*, capable of reasonable discretion and self-control, within the meaning of the law. And so long as they are sane, they must be permitted to control themselves and their property, and to be their own judges as to where their vices will finally lead them. It may be hoped by the lookers-on, in each individual case, that the vicious person will see the end to which he is tending, and be induced to turn back. But, if he chooses to go on to what other men call destruction, he must be permitted to do so. And all that can be said of him, so far as this life is concerned, is, that he made a great mistake in his search after happiness, and that others will do well to take warning by his fate. As to what may be his condition in another life, that is a theological question with which the law, in this world, has no more to do than it has with any other theological question, touching men's condition in a future life.

If it be asked how the question of a vicious man's sanity or insanity is to be determined? the answer is, that it is to be determined by the same kinds of evidence as is the sanity or insanity of those who are called virtuous; and not otherwise. That is, by the same kinds of evidence by which the legal tribunals determine whether a man should be sent to an asylum for lunatics, or whether he is competent to make a will, or otherwise dispose of his property. Any doubt must weigh in favor of his sanity, as in all other cases, and not of his insanity.

If a person really does become insane, *non compos mentis*, incapable of reasonable discretion or self-control, it is then a crime, on the part of other men, to give to him or sell to him, the means of self-injury.[1] And such a crime is to be punished like any other crime.

There are no crimes more easily punished, no cases in which juries would be more ready to convict, than those where a sane person should sell or give to an insane one any article with which the latter was likely to injure himself.

XVII.

BUT it will be said that some men are made, by their vices, dangerous to other persons; that a drunkard, for example, is sometimes quarrelsome and dangerous toward his family or others. And it will be asked, "Has the law nothing to do in such a case?"

The answer is, that if, either from drunkenness or any other cause, a man be really dangerous, either to his family or to other persons, not only himself may be rightfully restrained, so far as the safety of other persons requires, but all other persons—who know or have reasonable grounds to believe him dangerous—may also be restrained from selling or giving to him anything that they have reason to suppose will make him dangerous.

But because one man becomes quarrelsome and dangerous after drinking spirituous liquors, and because it is a crime to give or sell liquor to such a man, it does not follow at all that it is a crime to sell liquors to the hundreds and thousands of other persons, who are not made quarrelsome or dangerous by drinking them. Before a man can be convicted of crime in selling

liquor to a dangerous man, it must be shown that the particular man, to whom the liquor was sold, was dangerous; and also that the seller knew, or had reasonable grounds to suppose, that the man would be made dangerous by drinking it.

The presumption of law is, in all cases, that the sale is innocent; and the burden of proving it criminal, in any particular case, rests upon the government. And that particular case must be proved criminal, independently of all others.

Subject to these principles, there is no difficulty in convicting and punishing men for the sale or gift of any article to a man, who is made dangerous to others by the use of it.

XVIII.

BUT it is often said that some vices are nuisances (public or private), and that nuisances can be abated and punished.

It is true that anything that is really and legally a nuisance (either public or private) can be abated and punished. But it is not true that the mere private vices of one man are, in any legal sense, nuisances to another man, or to the public.

No act of one person can be a nuisance to another, unless it in some way obstructs or interferes with that other's safe and quiet use or enjoyment of what is rightfully his own.

Whatever obstructs a public highway, is a nuisance, and may be abated and punished. But a hotel where liquors are sold, a liquor store, or even a grog-shop, so called, no more obstructs a public highway, than does a dry goods store, a jewelry store, or a butcher's shop.

Whatever poisons the air, or makes it either offensive or unhealthful, is a nuisance. But neither a hotel, nor a liquor store, nor a grog-shop poisons the air, or makes it offensive or unhealthful to outside persons.

Whatever obstructs the light, to which a man is legally entitled, is a nuisance. But neither a hotel, nor a liquor store, nor a grog-shop, obstructs anybody's light, except in cases where a church, a school-house, or a dwelling-house would have equally obstructed it. On this ground, therefore, the former are no more, and no less, nuisances than the latter would be.

Some persons are in the habit of saying that a liquor-shop is dangerous, in the same way that gunpowder is dangerous. But there is no analogy between the two cases. Gunpowder is liable to be exploded by accident, and especially by such fires as often occur in cities. For these reasons it is dangerous to persons and property in its immediate vicinity. But liquors are not liable to be thus exploded, and therefore are not dangerous nuisances, in any such sense as is gunpowder in cities.

But it is said, again, that drinking-places are frequently filled with noisy and boisterous men, who disturb the quiet of the neighborhood, and the sleep and rest of the neighbors.

This may be true occasionally, though not very frequently. But whenever, in any case, it is true, the nuisance may be abated by the punishment of the proprietor and his customers, and if need be, by shutting up the place. But an assembly of noisy drinkers is no more a nuisance than is any other noisy assembly. A jolly or hilarious drinker disturbs the quiet of a neighborhood no more, and no less, than does a shouting religious fanatic. An assembly of noisy drinkers is no more, and no less, a nuisance than is an assembly of shouting religious fanatics. Both of them are nuisances when they disturb the rest and sleep, or quiet, of neighbors. Even a dog that is given to barking, to the disturbance of the sleep or quiet of the neighborhood, is a nuisance.

XIX.

BUT it is said, that for one person to entice another into a vice, is a crime.

This is preposterous. If any particular act is simply a vice, then a man who entices another to commit it, is simply an accomplice in the vice. He evidently commits no crime, because the accomplice can certainly commit no greater offence than the principal.

Every person who is sane, compos mentis, possessed of reasonable discretion and self-control, is presumed to be mentally competent to judge for himself of all the arguments, pro and con, that may be addressed to him, to persuade him to do any particular act; provided no fraud is employed to deceive him.

And if he is persuaded or induced to do the act, his act is then his own; and even though the act prove to be harmful to himself, he cannot complain that the persuasion or arguments, to which he yielded his assent, were crimes against himself.

When fraud is practised, the case is, of course, different. If, for example, I offer a man poison, assuring him that it is a safe and wholesome drink, and he, on the faith of my assertion, swallows it, my act is a crime.

Volenti non fit injuria, is a maxim of the law. To the willing no injury is done. That is, no legal wrong. And every person who is sane, *compos mentis*, capable of exercising reasonable discretion in judging of the truth or falsehood of the representations or persuasions to which he yields his assent, is "willing," in the view of the law; and takes upon himself the entire responsibility for his acts, when no intentional fraud has been practised upon him.

This principle, that to the willing no injury is done, has no limit, except in the case of frauds, or of persons not possessed of reasonable discretion for judging in the particular case. If a person possessed of reasonable discretion, and not deceived by fraud, consents to practise the grossest vice, and thereby brings upon himself the greatest moral, physical, or pecuniary sufferings or losses, he cannot allege that he has been legally wronged. To illustrate this principle, take the case of rape. To have carnal knowledge of a woman, against her will, is the highest crime, next to murder, that can be committed against her. But to have carnal knowledge of her, with her consent, is no crime; but at most, a vice. And it is usually holden that a female child, of no more than ten years of age, has such reasonable discretion, that her consent, even though procured by rewards, or promises of reward, is sufficient to convert the act, which would otherwise be a high crime, into a simple act of vice.[2]

We see the same principle in the case of prize-fighters. If I but lay one of my fingers upon another man's person, against his will, no matter how lightly, and no matter how little practical injury is done, the act is a crime. But if two men agree to go out and pound each other's faces to a jelly, it is no crime, but only a vice.

Even duels have not generally been considered crimes, because each man's life is his own, and the parties agree that each may take the other's life, if he can, by the use of such weapons as are agreed upon, and in conformity with certain rules that are also mutually assented to.

And this is a correct view of the matter, unless it can be said (as it probably cannot), that "anger is a madness" that so far deprives men of their reason as to make them incapable of reasonable discretion.

Gambling is another illustration of the principle that to the willing no injury is done. If I take but a single cent of a man's property, without his consent, the act is a crime. But if two men, who are *compos mentis*, possessed of reasonable discretion to judge of the nature and probable results of their act, sit down together, and each voluntarily stakes his money against the money of another, on the turn of a die, and one of them loses his whole estate (however large that may be), it is no crime, but only a vice.

It is not a crime, even, to assist a person to commit suicide, if he be in possession of his reason.

It is a somewhat common idea that suicide is, of itself, conclusive evidence of insanity. But, although it may ordinarily be very strong evidence of insanity, it is by no means conclusive in all cases. Many persons, in undoubted possession of their reason, have committed suicide, to escape the shame of a public exposure for their crimes, or to avoid some other great calamity. Suicide, in these cases, may not have been the highest wisdom, but it certainly was not proof of any lack of reasonable discretion.[3] And being within the limits of reasonable discretion, it was no crime for other persons to aid it, either by furnishing the instrument or otherwise. And if, in such cases, it be no crime to aid a suicide, how absurd to say that it is a crime to aid him in some act that is really pleasurable, and which a large portion of mankind have believed to be useful?

XX.

BUT some persons are in the habit of saying that the use of spirituous liquors is the great source of crime; that "it fills our prisons with criminals;" and that this is reason enough for prohibiting the sale of them.

Those who say this, if they talk seriously, talk blindly and foolishly. They evidently mean to be understood as saying that a very large percentage of all the crimes that are committed among men, are committed by

persons whose criminal passions are excited, at the time, by the use of liquors, and in consequence of the use of liquors.

This idea is utterly preposterous. In the first place, the great crimes committed in the world are mostly prompted by avarice and ambition.

The greatest of all crimes are the wars that are carried on by governments, to plunder, enslave, and destroy mankind.

The next greatest crimes committed in the world are equally prompted by avarice and ambition; and are committed, not on sudden passion, but by men of calculation, who keep their heads cool and clear, and who have no thought whatever of going to prison for them. They are committed, not so much by men who violate the laws, as by men who, either by themselves or by their instruments, make the laws; by men who have combined to usurp arbitrary power, and to maintain it by force and fraud, and whose purpose in usurping and maintaining it is, by unjust and unequal legislation, to secure to themselves such advantages and monopolies as will enable them to control and extort the labor and properties of other men, and thus impoverish them, in order to minister to their own wealth and aggrandizement.[4] The robberies and wrongs thus committed by these men, in conformity with the laws,—that is, their own laws,—are as mountains to molehills, compared with the crimes committed by all other criminals, in violation of the laws.

But, thirdly, there are vast numbers of frauds, of various kinds, committed in the transactions of trade, whose perpetrators, by their coolness and sagacity, evade the operation of the laws. And it is only their cool and clear heads that enable them to do it. Men under the excitement of intoxicating drinks are little disposed, and utterly unequal, to the successful practice of these frauds. They are the most incautious, the least successful, the least efficient, and the least to be feared, of all the criminals with whom the laws have to deal.

Fourthly. The professed burglars, robbers, thieves, forgers, counterfeiters, and swindlers, who prey upon society, are anything but reckless drinkers. Their business is of too dangerous a character to admit of such risks as they would thus incur.

Fifthly. The crimes that can be said to be committed under the influence of intoxicating drinks are mostly assaults and batteries, not very numerous, and generally not very aggravated. Some other small crimes, as petty thefts, or other small trespasses upon property, are sometimes committed, under the influence of drink, by feebleminded persons, not generally addicted to crime. The persons who commit these two kinds of crime are but few. They cannot be said to “fill our prisons;” or, if they do, we are to be congratulated that we need so few prisons, and so small prisons, to hold them.

The State of Massachusetts, for example, has a million and a half of people. How many of these are now in prison for crimes—not for the vice of intoxication, but for crimes—committed against persons or property under the instigation of strong drink? I doubt if there be one in ten thousand, that is, one hundred and fifty in all; and the crimes for which these are in prison are mostly very small ones.

And I think it will be found that these few men are generally much more to be pitied than punished, for the reason that it was their poverty and misery, rather than any passion for liquor, or for crime, that led them to drink, and thus led them to commit their crimes under the influence of drink.

The sweeping charge that drink “fills our prisons with criminals” is made, I think, only by those men who know no better than to call a drunkard a criminal; and who have no better foundation for their charge than the shameful fact that we are such a brutal and senseless people, that we condemn and punish such weak and unfortunate persons as drunkards, as if they were criminals.

The legislators who authorize, and the judges who practise, such atrocities as these, are intrinsically criminals; unless their ignorance be such—as it probably is not—as to excuse them. And, if they were themselves to be punished as criminals, there would be more reason in our conduct.

A police judge in Boston once told me that he was in the habit of disposing of drunkards (by sending them to prison for thirty days—I think that was the stereotyped sentence) at the rate of one in three minutes! and sometimes more rapidly even than that; thus condemning them as criminals, and sending them to prison, without mercy, and without inquiry into circumstances, for an infirmity that entitled them

to compassion and protection, instead of punishment. The real criminals in these cases were not the men who went to prison, but the judge, and the men behind him, who sent them there.

I recommend to those persons, who are so distressed lest the prisons of Massachusetts be filled with criminals, that they employ some portion, at least, of their philanthropy in preventing our prisons being filled with persons who are not criminals. I do not remember to have heard that their sympathies have ever been very actively exercised in that direction. On the contrary, they seem to have such a passion for punishing criminals, that they care not to inquire particularly whether a candidate for punishment really be a criminal. Such a passion, let me assure them, is a much more dangerous one, and one entitled to far less charity, both morally and legally, than the passion for strong drink.

It seems to be much more consonant with the merciless character of these men to send an unfortunate man to prison for drunkenness, and thus crush, and degrade, and dishearten him, and ruin him for life, than it does for them to lift him out of the poverty and misery that caused him to become a drunkard.

It is only those persons who have either little capacity, or little disposition, to enlighten, encourage, or aid mankind, that are possessed of this violent passion for governing, commanding, and punishing them. If, instead of standing by, and giving their consent and sanction to all the laws by which the weak man is first plundered, oppressed, and disheartened, and then punished as a criminal, they would turn their attention to the duty of defending his rights and improving his condition, and of thus strengthening him, and enabling him to stand on his own feet, and withstand the temptations that surround him, they would, I think, have little need to talk about laws and prisons for either rum-sellers or rum-drinkers, or even any other class of ordinary criminals. If, in short, these men, who are so anxious for the suppression of crime, would suspend, for a while, their calls upon the government for aid in suppressing the crimes of individuals, and would call upon the people for aid in suppressing the crimes of the government, they would show both their sincerity and good sense in a much stronger light than they do now. When the laws shall all be so just and equitable as to make it possible for all men and women to live honestly and virtuously, and to make themselves comfortable and happy, there will be much fewer occasions than now for charging them with living dishonestly and viciously.

XXI.

BUT it will be said, again, that the use of spirituous liquors tends to poverty, and thus to make men paupers, and burdensome to the tax-payers; and that this is a sufficient reason why the sale of them should be prohibited.

There are various answers to this argument.

1. One answer is, that if the fact that the use of liquors tends to poverty and pauperism, be a sufficient reason for prohibiting the sale of them, it is equally a sufficient reason for prohibiting the use of them; for it is the use, and not the sale, that tends to poverty. The seller is, at most, merely an accomplice of the drinker. And it is a rule of law, as well as of reason, that if the principal in any act is not punishable, the accomplice cannot be.

2. A second answer to the argument is, that if government has the right, and is bound, to prohibit any one act—that is not criminal—merely because it is supposed to tend to poverty, then, by the same rule, it has the right, and is bound, to prohibit any and every other act—though not criminal—which, in the opinion of the government, tends to poverty. And, on this principle, the government would not only have the right, but would be bound, to look into every man's private affairs, and every person's personal expenditures, and determine as to which of them did, and which of them did not, tend to poverty; and to prohibit and punish all of the former class. A man would have no right to expend a cent of his own property, according to his own pleasure or judgment, unless the legislature should be of the opinion that such expenditure would not tend to poverty.

3. A third answer to the same argument is, that if a man does bring himself to poverty, and even to beggary,—either by his virtues or his vices,—the government is under no obligation whatever to take care of him, unless it pleases to do so. It may let him perish in the street, or depend upon private charity, if it so pleases. It can carry out its own free will and

discretion in the matter; for it is above all legal responsibility in such a case. It is not, necessarily, any part of a government's duty to provide for the poor. A government—that is, a legitimate government—is simply a voluntary association of individuals, who unite for such purposes, and only for such purposes, as suits them. If taking care of the poor—whether they be virtuous or vicious—be not one of those purposes, then the government, as a government, has no more right, and is no more bound, to take care of them, than has or is a banking company, or a railroad company.

Whatever moral claims a poor man—whether he be virtuous or vicious—may have upon the charity of his fellow-men, he has no legal claims upon them. He must depend wholly upon their charity, if they so please. He cannot demand, as a legal right, that they either feed or clothe him. And he has no more legal or moral claims upon a government—which is but an association of individuals—than he has upon the same, or any other individuals, in their private capacity.

Inasmuch, then, as a poor man—whether virtuous or vicious—has no more or other claims, legal or moral, upon a government, for food or clothing, than he has upon private persons, a government has no more right than a private person to control or prohibit the expenditures or actions of an individual, on the ground that they tend to bring him to poverty.

Mr. A, as an individual, has clearly no right to prohibit any acts or expenditures of Mr. Z, through fear that such acts or expenditures may tend to bring him (Z) to poverty, and that he (Z) may, in consequence, at some future unknown time, come to him (A) in distress, and ask charity. And if A has no such right, as an individual, to prohibit any acts or expenditures on the part of Z, then government, which is a mere association of individuals, can have no such right.

Certainly no man, who is *compos mentis*, holds his right to the disposal and use of his own property, by any such worthless tenure as that which would authorize any or all of his neighbors,—whether calling themselves a government or not,—to interfere, and forbid him to make any expenditures, except such as they might think would not tend to poverty, and would not tend to ever bring him to them as a supplicant for their charity.

Whether a man, who is *compos mentis*, come to poverty, through his virtues or his vices, no man, nor body of men, can have any right to interfere with him, on the ground that their sympathy may some time be appealed to in his behalf; because, if it should be appealed to, they are at perfect liberty to act their own pleasure or discretion as to complying with his solicitations.

This right to refuse charity to the poor—whether the latter be virtuous or vicious—is one that governments always act upon. No government makes any more provision for the poor than it pleases. As a consequence, the poor are left, to a great extent, to depend upon private charity. In fact, they are often left to suffer sickness, and even death, because neither public nor private charity comes to their aid. How absurd, then, to say that government has a right to control a man's use of his own property, through fear that he may sometime come to poverty, and ask charity.

4. Still a fourth answer to the argument is, that the great and only incentive which each individual man has to labor, and to create wealth, is that he may dispose of it according to his own pleasure or discretion, and for the promotion of his own happiness, and the happiness of those whom he loves.[5]

Although a man may often, from inexperience or want of judgment, expend some portion of the products of his labor injudiciously, and so as not to promote his highest welfare, yet he learns wisdom in this, as in all other matters, by experience; by his mistakes as well as by his successes. And this is the only way in which he can learn wisdom. When he becomes convinced that he has made one foolish expenditure, he learns thereby not to make another like it. And he must be permitted to try his own experiments, and to try them to his own satisfaction, in this as in all other matters; for otherwise he has no motive to labor, or to create wealth at all.

Any man, who is a man, would rather be a savage, and be free, creating or procuring only such little wealth as he could control and consume from day to day, than to be a civilized man, knowing how to create and accumulate wealth indefinitely, and yet not permitted to use or dispose of it, except under the supervision, direction, and dictation of a set of meddling, superserviceable fools and tyrants, who, with no more knowledge than himself, and perhaps with not half so much, should assume to control him, on the

ground that he had not the right, or the capacity, to determine for himself as to what he would do with the proceeds of his own labor.

5. A fifth answer to the argument is, that if it be the duty of government to watch over the expenditures of any one person,—who is *compos mentis*, and not criminal,—to see what ones tend to poverty, and what do not, and to prohibit and punish the former, then, by the same rule, it is bound to watch over the expenditures of all other persons, and prohibit and punish all that, in its judgment, tend to poverty.

If such a principle were carried out impartially, the result would be, that all mankind would be so occupied in watching each other's expenditures, and in testifying against, trying, and punishing such as tended to poverty, that they would have no time left to create wealth at all. Everybody capable of productive labor would either be in prison, or be acting as judge, juror, witness, or jailer. It would be impossible to create courts enough to try, or to build prisons enough to hold, the offenders. All productive labor would cease; and the fools that were so intent on preventing poverty, would not only all come to poverty, imprisonment, and starvation themselves, but would bring everybody else to poverty, imprisonment, and starvation.

6. If it be said that a man may, at least, be rightfully compelled to support his family, and, consequently, to abstain from all expenditures that, in the opinion of the government, tend to disable him to perform that duty, various answers might be given. But this one is sufficient, *viz.*: that no man, unless a fool or a slave, would acknowledge any family to be his, if that acknowledgment were to be made an excuse, by the government, for depriving him, either of his personal liberty, or the control of his property.

When a man is allowed his natural liberty, and the control of his property, his family is usually, almost universally, the great paramount object of his pride and affection; and he will, not only voluntarily, but as his highest pleasure, employ his best powers of mind and body, not merely to provide for them the ordinary necessaries and comforts of life, but to lavish upon them all the luxuries and elegancies that his labor can procure.

A man enters into no moral or legal obligation with his wife or children to do anything for them, except what he can do consistently with his own personal freedom, and his natural right to control his own property at his own discretion.

If a government can step in and say to a man,— who is *compos mentis*, and who is doing his duty to his family, as he sees his duty, and according to his best judgment, however imperfect that may be,—“We (the government) suspect that you are not employing your labor to the best advantage for your family; we suspect that your expenditures, and your disposal of your property, are not so judicious as they might be, for the interest of your family; and therefore we (the government) will take you and your property under our special surveillance, and prescribe to you what you may, and may not do, with yourself and your property; and your family shall hereafter look to us (the government), and not to you, for support”—if a government can do this, all a man's pride, ambition, and affection, relative to his family, would be crushed, so far as it would be possible for human tyranny to crush them; and he would either never have a family (whom he would publicly acknowledge to be his), or he would risk both his property and his life in overthrowing such an insulting, outrageous, and insufferable tyranny. And any woman who would wish her husband—he being *compos mentis*—to submit to such an unnatural insult and wrong, is utterly undeserving of his affection, or of anything but his disgust and contempt. And he would probably very soon cause her to understand that, if she chose to rely on the government, for the support of herself and her children, rather than on him, she must rely on the government alone.

XXII.

STILL another and all-sufficient answer to the argument that the use of spirituous liquors tends to poverty, is that, as a general rule, it puts the effect before the cause. It assumes that it is the use of the liquors that causes the poverty, instead of its being the poverty that causes the use of the liquors.

Poverty is the natural parent of nearly all the ignorance, vice, crime, and misery there are in the world.[6]

Why is it that so large a portion of the laboring people of England are drunken and vicious? Certainly not because they are by nature any worse than other men. But it is because their extreme and hopeless poverty

keeps them in ignorance and servitude, destroys their courage and self-respect, subjects them to such constant insults and wrongs, to such incessant and bitter miseries of every kind, and finally drives them to such despair, that the short respite that drink or other vice affords them, is, for the time being, a relief. This is the chief cause of the drunkenness and other vices that prevail among the laboring people of England.

If those laborers of England, who are now drunken and vicious, had had the same chances and surroundings in life as the more fortunate classes have had; if they had been reared in comfortable, and happy, and virtuous homes, instead of squalid, and wretched, and vicious ones; if they had had opportunities to acquire knowledge and property, and make themselves intelligent, comfortable, happy, independent, and respected, and to secure to themselves all the intellectual, social, and domestic enjoyments which honest and justly rewarded industry could enable them to secure,—if they could have had all this, instead of being born to a life of hopeless, unrewarded toil, with a certainty of death in the workhouse, they would have been as free from their present vices and weaknesses as those who reproach them now are.

It is of no use to say that drunkenness, or any other vice, only adds to their miseries; for such is human nature—the weakness of human nature, if you please—that men can endure but a certain amount of misery, before their hope and courage fail, and they yield to almost anything that promises present relief or mitigation; though at the cost of still greater misery in the future. To preach morality or temperance to such wretched persons, instead of relieving their sufferings, or improving their conditions, is only insulting their wretchedness.

Will those who are in the habit of attributing men's poverty to their vices, instead of their vices to their poverty,—as if every poor person, or most poor persons, were specially vicious,—tell us whether all the poverty and want that, within the last year and a half,*[7] have been brought so suddenly—as it were in a moment—upon at least twenty millions of the people of the United States, were brought upon them as a natural consequence, either of their drunkenness, or of any other of their vices? Was it their drunkenness, or any other of their vices, that paralyzed, as by a stroke of lightning, all the industries by which they lived, and which had, but a few days before, been in such prosperous activity? Was it their vices that turned the adult portion of those twenty millions out of doors without employment, compelled them to consume their little accumulations, if they had any, and then to become beggars,—beggars for work, and, failing in this, beggars for bread? Was it their vices that, all at once, and without warning, filled the homes of so many of them with want, misery, sickness, and death? No. Clearly it was neither the drunkenness, nor any other vices, of these laboring people, that brought upon them all this ruin and wretchedness. And if it was not, what was it?

This is the problem that must be answered; for it is one that is repeatedly occurring, and constantly before us, and that cannot be put aside.

In fact, the poverty of the great body of mankind, the world over, is the great problem of the world. That such extreme and nearly universal poverty exists all over the world, and has existed through all past generations, proves that it originates in causes which the common human nature of those who suffer from it, has not hitherto been strong enough to overcome. But these sufferers are, at least, beginning to see these causes, and are becoming resolute to remove them, let it cost what it may. And those who imagine that they have nothing to do but to go on attributing the poverty of the poor to their vices, and preaching to them against their vices, will ere long wake up to find that the day for all such talk is past. And the question will then be, not what are men's vices, but what are their rights?

Notes

[1] To give an insane man a knife, or any other weapon, or thing, by which he is likely to injure himself, is a crime.

[2] The statute book of Massachusetts makes ten years the age at which a female child is supposed to have discretion enough to part with her virtue. But the same statute book holds that no person, man or woman, of any age, or any degree of wisdom or experience, has discretion enough to be trusted to buy and

drink a glass of spirits, on his or her own judgment! What an illustration of the legislative wisdom of Massachusetts!

[3] Cato committed suicide to avoid falling into the hands of Cæsar. Who ever suspected that he was insane? Brutus did the same. Colt committed suicide only an hour or so before he was to be hanged. He did it to avoid bringing upon his name and his family the disgrace of having it said that he was hanged. This, whether a really wise act or not, was clearly an act within reasonable discretion. Does any one suppose that the person who furnished him with the necessary instrument was a criminal?

[4] An illustration of this fact is found in England, whose government, for a thousand years and more, has been little or nothing else than a band of robbers, who have conspired to monopolize the land, and, as far as possible, all other wealth. These conspirators, calling themselves kings, nobles, and freeholders, have, by force and fraud, taken to themselves all civil and military power; they keep themselves in power solely by force and fraud, and the corrupt use of their wealth; and they employ their power solely in robbing and enslaving the great body of their own people, and in plundering and enslaving other peoples. And the world has been, and now is, full of examples substantially similar. And the governments of our own country do not differ so widely from others, in this respect, as some of us imagine.

[5] It is to this incentive alone that we are indebted for all the wealth that has ever been created by human labor, and accumulated for the benefit of mankind.

[6] Except those great crimes, which the few, calling themselves governments, practise upon the many, by means of organized, systematic extortion and tyranny. And it is only the poverty, ignorance, and consequent weakness of the many, that enable the combined and organized few to acquire and maintain such arbitrary power over them.

[7] That is, from September 1, 1873, to March 1, 1875.