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A VOICE FROM MEMORY.

WRITTEN ON THE 24TH OF MAY, THE ANNIVERSARY OF THE DAY ON WHICH ELLIS GRAY LORING DEPARTED FROM THIS LIFE.

BY L. MARIA CHILD.

AGAIN the trees are clothed in vernal green,
Again the waters flow in silv'ry sheen ;
But all this beauty through a mist I see,
For earth bloomed thus when thou wert lost to me.

The flowers come back, the tuneful birds return ;
But thou, for whom my spirit still doth yearn,
Art gone from me to spheres so bright and far,
Thou seem'st the Spirit of some distant Star.

Oh, for some telegram from thee, my friend !
Some whispered answer to the love I send !
Or one brief glance from those dear guileless eyes,
That smiled to me so sweetly thy replies.

My heart is hungry for thy gentle ways,
Thy friendly counsels and thy precious praise ;
I seem to travel in the dark alone,
Since thou, my wisest, truest guide, art gone.

And yet at times so near thou art to me,
That each good thought seems still inspired by thee.
I almost hear thee say, "Fear not, my friend !
Our friendship, pure and loyal, knows no end."

Oh, lead me ever nearer to thy sphere,
 And guide and help me, as thou didst while here!
 For still I lean on thy pure, faithful heart,
 Angel or seraph, wheresoe'er thou art.

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THE LEGAL STATUS OF WOMAN.

BY H. H. BOND.

CIVILIZATION in its development, and laws in their consequent advance, seem to go from one position to another, each position in its turn serving as a basis for the making of still further inroads into the undeveloped future. In the advance, the different acts appear like little dots along the line of the broad principle in which they are at last absorbed; and a step once taken, the same advancing course is repeated.

In the status of woman, starting from the firmly-established system in which the central feature was the legal absorption of the individuality of woman in the status of man, the law, as we have seen, has been constantly abandoning that position: First, adding legal duties to balance the husband's legal rights, and restricting by degrees the latter; next, under the guise of fiction, avoiding the effect of many of the strict legal rules; then, through a court of conscience, bringing many cases outside of the legal system, and gradually extending these till equity had "eaten out the heart of the law" which belonged to a different age; and lastly, through legislation, arranging and advancing the new order of things, till it has finally, in a

great measure, worked itself into a new system, in which, if we may judge from the tendency of the past and the indications of the present, the moving principle will be, the full, individual equality of man and woman before the law.

We are led to this position not only by the logic of legal progress, but also by the logic of reason and justice.

Laws, it will hardly be denied, should carry out the principle upon which a government is founded. Says that great inquirer into the spirit of laws, MONTESQUIEU, "The relation of laws to the principle of government strengthens the several springs of government; and this principle derives from thence, in its turn, a new degree of vigor."

Individuality is one of the fundamental features of the principle upon which our government is based, and therefore one which should be recognized by our laws. Herein lies a distinctive difference between the ancient and modern state. Says that profound thinker and writer upon questions pertaining to the individual and the state, Dr. LIEBER, "One of the main and characteristic differences between the ancient states

and modern ones is this, that in antiquity the state nearly absorbed the individual rights and interests, and public attention was directed far more toward the preservation of the whole than the protection of the individual. Politics, however, established according to the point of view which is taken in modern times, places the protection of the individual, *the individual rights of man*, in the most prominent position among all the objects of the state."

The individuality of man is a truth which, though we regard it as self-evident, is too often forgotten or unheeded in our laws, and will bear constant reiteration. As an individual, man has a certain destiny which leads to individual responsibilities and their complementary rights; rights which we consider as springing from the nature of man, and hence *natural*; rights which are not properly the subject of ridicule or contempt, but which are *essential*; rights which are not to be arrogated by others, but which are *inalienable*, or inseparably connected with the individual.

Among the first of these rights is that of *personality*, or the right to be recognized and treated as an individual. Any system which absorbs this right is a system of slavery; and what else is that system which "demands that husband and wife be recognized as one"—one absorbing the individuality of the other? It would seem, therefore, that "declamation" against this is not necessarily the "mere quibble," which the author of *Ecce Femina* is pleased to term it.

Again, we include the individual *right of property* among the natural

rights of man. We can hardly comprehend how it is that a system which denied this right to the individual woman to the extent it has done, has been so tenaciously held to be just, when it violated that which was deemed most sacred to the individual man. Fully carried out, this right covers a broad field; for with it are concerned nine tenths of all laws. Political rights from this gain a strong support. There is sterling worth in the idea which we see struggling through English history, and becoming crystallized in the familiar maxim, "No taxation without representation." England, especially, which, clings more to the property theory of government, and where voting is often called a vested right of property, is logically led forward to the acknowledgment of woman's right to the ballot.

But further, each individual is endowed with an imperfect nature, the development of which is a life-long duty. Hand in hand with this responsibility goes *free-agency*; and to each individual, therefore, belongs the right to work out his or her own manhood or womanhood in his or her own way; and upon every other individual, number, or class of individuals devolves the correlative duty of, at least, placing no obstacles in the way of this free development. In this respect there has been a prominent defect in the legal status of woman. While not acknowledging her to be wanting in reason and judgment, the law has arbitrarily restricted her life to a narrow channel. "Her disabilities," said an eminent judge, "come not from want of judgment, but from want of free-agency."

This would seem to be answer

enough to the oft-repeated objection, which is by many deemed most fundamental, that women do not ask or wish for this or that. Whether they ask for it or not, if it be their *right*, there is the *duty* on the part of every one else to see to it that they place nothing in the way of the exercise of that right.

It also meets the objections founded on the assumption that "society is organized for and by the majority." If this were true, why is it that the constitutional government of modern times has come to mean a government that protects the individual from power whether in one or many? There are rights which should be carefully preserved from the uncertain will of that power which did not hesitate to sentence a SOCRATES, or to persecute and crucify a SAVIOUR.

This, too, meets the attempt of any person to rigidly mark out the scope of another's life. Each one lives his own life, and is responsible for the use of his own nature. The ancient ordinances of MENU furnish a text, which, as Dr. LIEBER expressed it, "sounds like a passage from the Bible;" "single is each man born; single he dieth; single he receiveth the reward of his good, and single the punishment of his evil deeds."

But, it is said, there is a radical error in this mode of reasoning; because society, instead of being a union of individuals, is a union of families. And then follows the very plausible argument, that, "as the law recognizes the family as one, of course there can be but one representative; and as the husband," etc. etc. The importance of the institution of the family is not questioned;

but the assumption that it is the *unit* of society is not so readily maintained. Absorb all individuality in this family unit by the most perfect theory that human language can devise; and when it is done, the plain, practical fact, which, like BANQUO's ghost, will never down, rises up to refute it, that the *individual* yet remains. Have we, indeed, been retrograding that the law has come to reach down to the individual? Barbarian law looked only to the family, and every thing was consistently shaped in accordance with that theory. But we have changed this unit of fiction to the unit of fact. The difference is forcibly expressed by Professor MAINE in the words, "The unit of an ancient society was the family; of a modern society it is the individual."

Closely connected, and blending with the individualism of modern society, is the *equality* of individuals, which is so essential a feature of our polity, and which should, therefore, also shape our laws. The "all men are created equal" of our Declaration of Independence, and the fuller expression, an outgrowth of the former, "All men are equal by nature and before the law, in the French Declaration of Rights, are phrases that have a meaning in them. To make these "glittering generalities" practical truths, is a task for a high degree of civilization. Caste, in one form or another, is ever making some particular individuals peculiar favorites of nature and law. The Hindoo will give ready ear to the doctrines of the Christian till it is intimated that the Pariah is his equal; but that is something inconceivable to him.

The Christian himself shook his head, like the heathen, at the application of the same truth to the negro. The law, therefore, makes the Pariah an outcast, and made the African a slave. Something the same has been the lot of woman. Caste had decreed that she was inferior to man by nature, and she was therefore made subordinate to him by law. Modern civilization has done much toward doing away with the effects of caste, and bringing out in a clearer light the principle of equality. Every period has had prominently before it some one of the phases of this principle. At the present day none is more prominent than this: that natural rights know of no distinctions of sex. This phase has long remained in the background, but is now coming to take its proper place. And as it does so, there is a demand that women as well as men shall not be restricted by law from acting out their full part in the play of life; a demand for a broader application of the fundamental truth that all men are equal by nature and *before the law*.

To this equality there appears to be no sound objection. Christianity is of course made to oppose it; for what reform is there that it has not been made to oppose? Yet one of the great truths which Christianity teaches is that of individual equality. Physical and intellectual reasons are continually adduced against it; but only a half application is made of them when they are applied to women only; and are we at this late day to make it a condition precedent to the concession of rights that a person should be a HERCULES in

physical strength, or a SHAKESPEARE in intellectual vigor? Then there is made the objection of which men have no reason to be proud, but which may perhaps be a practical one to most women, that woman will, on account of it, lose the respect of men. Some women may so act as to forfeit their claim to respect; but should, for example, VICTORIA be entitled to less respect as a woman because she happens to be Queen of England; or FLORENCE NIGHTINGALE because of her not following the line marked out by some worthy reverend; or Mrs. STOWE because of her having won a respected name in literature; or ought any woman to be any less worthy of respect *because* she may happen to own property in her separate right, or be entitled to cast a ballot if she chooses? When driven from one position to another, the opponents of this equality, or some of them, frankly admit that its advocates have the argument, and then intrench themselves in a last stronghold, that the reasons which are opposed are too deep and subtle for expression. That position at most is hardly satisfactory, and if safe from attack, will not be apt to obstruct the advance.

That a woman should be the legal equal of man does not require that she should forsake her own nature and acquire his, any more than for him to assume the feminine characteristics; on the contrary, for men and women to associate as equals—to do which the law should recognize them as such—would seem naturally to bring out the true nature of each more perfectly. In so far as they have come to be regarded as

equals it has been for the good of each, and for the benefit of the world at large ; and, at all events, a government which founds itself upon the theory that every citizen is, as an individual, the legal equal of every other, should be willing to give its own theory a fair trial.

Innovations in behalf of woman have heretofore been founded on the theory of charity rather than that of justice. VICTOR HUGO, through his character of JAVERT, says, "It is easy to be charitable, but, O God ! *it is hard to be just !*" There is a good deal of meaning in that sentence, and the status of woman is one of the illustrations showing its truth. Men arrogated to themselves the control of the legal rights of women, and then set up the claim that it was out of pure charity, so great a favorite was woman. If women were now and then favored with the privilege of exercising a right, it was discussed and treated as a charitable action on the part of man. But the moment there was a demand made by woman for any thing as a

right, the demand was looked upon as a presumption calling for manly ridicule and contempt. It is well to be able to feel that we have been charitable, but it would be better to be able to answer in the affirmative the question, Have we been *just*? Law deals in justice. And if the proposition be correct that the reason of our law requires the consideration of individuals as equals, justice certainly demands that this principle be impartially carried out in the legal status of woman.

It may perhaps be well to add that, while we advocate this course we have no picture to present of millennial days to immediately ensue upon its being carried out. We have no anticipation of any such results. We imagine that we shall all wake up from the change to recognize something of the same world, and in it find the same hard battle of progress to fight. It will only be a new position taken which the present civilization seems to demand, and which will be more favorable than the old for a further advance.

That a woman should be the legal equal of man does not require that she should forsake her own nature and become his way more than for the remaining course of the world. The contrast for men is to associate as equals— to do which the law should recognize them as such—would seem certainly to bring out the true nature of each more perfectly. In so far as they have come to be regarded

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