

upon the honest debtor, if he were once assured that the party with whom he contracts relied upon his integrity above every thing else, and upon that guarantee, instead of upon the power which the law permits any sordid and heartless creditor to have over the body of the debtor.

The vilest criminal, the common thief, or the midnight plunderer cannot be imprisoned, arrested or even held to bail, but upon an accusation by testimony, or a declaration of suspicion *under oath*; whilst the poor and friendless debtor is daily seized and dragged away from the hearth of his family and the ties of his home, and held captive, for a time at least, not in pursuance of the sentence of a court, or of a trial by a jury of his peers, but upon the bare suggestion of any vindictive creditor or his attorney.

The power of imprisonment for debt, *supposes* a trespass wilfully committed, where none was even intended.

It supposes an outrage against the peace and dignity of the State, where none has been attempted or meditated.

No person is compelled to become a creditor of another: whenever that relation exists, it has been voluntarily entered into by the creditor. If he incurs any risk by contracting it, it is with his own consent; and he may first satisfy himself as to the property, ability and integrity of the party he is about to trust. If, however, he neglect to take such precaution, or to deal for ready money, rather than forego the additional gain which time may chance to give him, the fault is his own,—a fault not unfrequently more injurious to the debtor than to the creditor; for, to the latter, the aggregate of additional gains under his system of crediting at higher prices, derived from the whole number of those who punctually meet their engagements, serves as an insurance fund to compensate him for what he occasionally loses by others.

The power to imprison the debtor, holds out an *inducement* to the tradesman or speculator to trust more to the law than to his own prudence and sagacity; when, by a due exertion of these, he would be more effectually secured than by all the power to imprison his debtor. Eager to force sales, he is less cautious in his inquiries as to the character and means of the purchaser, to whom, as a temptation to decoy him more deeply in debt, the creditor proffers a long credit and pleasing terms, carefully avoiding to intimate that a right to imprison shall be implied as a part of the agreement,

It is questionable whether fraud is less frequent on the part of the creditor than on the part of the debtor.

Imprisonment for debt operates only, or almost exclusively, on the really necessitous and truly unfortunate portion of the community; it has, therefore, a tendency to divide people into classes, and to array the affluent against the needy, and the fortunate against the unfortunate.

It is a power which, as long as it shall be tolerated by law, will obstinately bid defiance to public sentiment, the influence of which