

# **A PARADOX OF PROGRESS**

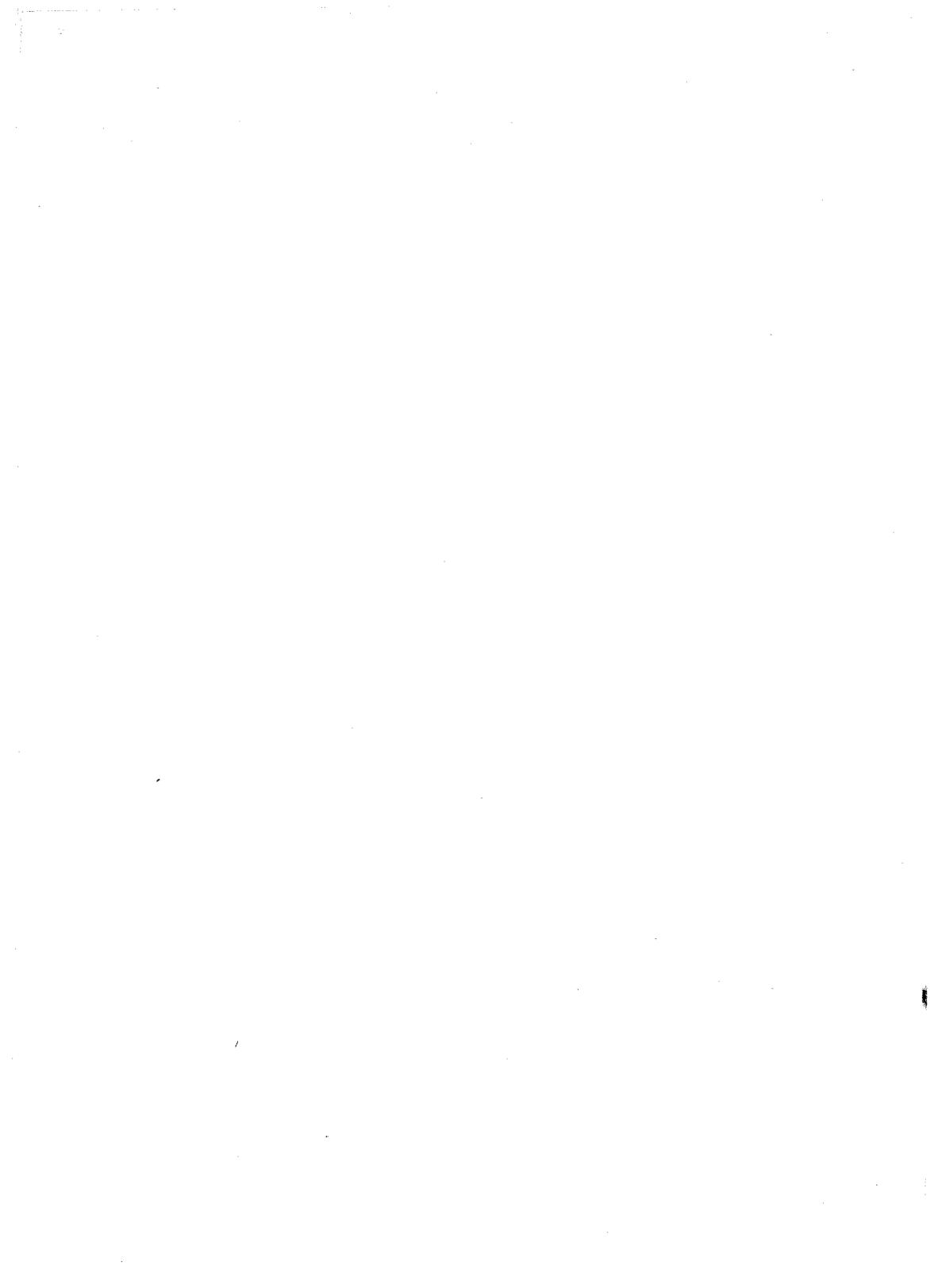
**By**

**GEO. W. P. HUNT**

**Governor of Arizona**

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An Address on Capital Punishment, Delivered in  
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Fellow Citizens:

The subject of capital punishment, involving as it does the deepest and most intricate questions of human rights, is one which I can hope to develop only in part, during the space allowed for this address.

For centuries past, the moral issue, brought into controversy by the custom of state and national governments in exacting human life as a penalty for crime, has enlisted the interest of a very considerable minority, at least, and has called forth innumerable protests from men and women who were not governed solely by sentiment, but who were recognized as being among the foremost thinkers of their respective historical periods. While nobody can reasonably disclaim the power of public sentiment as a moulder of universal opinion or as the force which gives direction to all human endeavor, nevertheless, it is not upon grounds of mere sentiment nor even of morality alone that I base my arguments against the retention of the death penalty in the Penal Code of the State of Arizona.

While, of course, it is clearly recognized that no public policy, however concrete and practical, can be wholly deprived of its moral aspect, the most telling arguments against capital punishment as an institution are, in my opinion, those which show con-

clusively that no government can persist in deliberately exacting a toll of human life in expiation of offenses against society without thereby seriously debasing its standards of conduct and engendering in the public mind certain mean and unworthy ideals, which, in turn, result in new transgressions against the general welfare. The truth of this condition, which is now quite readily admitted and upheld by our greatest students of anthropology and government, has not transpired as a sudden revelation, but has been slowly and laboriously divined after countless decades of human experience, in the course of which thousands upon thousands of men and women were driven to the guillotine or gallows in satisfaction of the mandates of imperious rulers obsessed with the delusion that severity of punishment would discourage offenses against sovereign law. Had the theory of crime prevention adhered to by these governments of the past had any foundation in actuality, the violation of law should logically have become obsolete several centuries ago, since the swift and cruel punishments inflicted upon the most petty offenders in some epochs of the world's history should have deterred the most desperate criminal, and should have rendered inviolate all well established doctrines adopted to insure the security of society.

Assuming that bloody executions and inhuman treatment of criminals offer the basis for an effectual solution of the crime problem, and particularly the discouraging of human beings from the commission of murder, we would be led to expect, in view of the revolting abuses inflicted in olden times, that those periods in the evolution of the human race in which retribution was most sudden and severe should be marked by fewer transgressions than have characterized any of the ages before or since. To the discomfiture, however, of the advocates of severity of punishment, it is found that such forbidding and horrifying penalties as burning at the stake, boiling alive, impalement on pikestuffs, disembowelment and precipitation from lofty cliffs did not render the people who resorted to those measures secure from criminal acts, but resulted, apparently, in the greatest eras of crime that have ever been recorded in human history. The closest observations, moreover, of historians and sociologists are agreed upon two conclusions, namely, that ignorance and brutality of punishment go hand in hand, and that penalties prescribed for the prohibition of

crime reflect the spirit of the times in which they are inflicted.

In support of the foregoing statements it is well to point out that in the year 1780 England enforced the death penalty for 240 different offenses, while as late as the year 1826 the English laws enumerated 160 capital crimes. France, in former days, had 116 transgressions for which offenders were subject to execution. It seems, moreover, almost incredible that as late as the year 1808 the long chapter of horrors known as the Spanish Inquisition was definitely concluded after the infliction of the death penalty on 341,021 people, 31,912 of whom were burned alive.

In the rapidity with which these different European nations have abandoned their systems of rigorous punishment in favor of methods wherein justice is more or less tempered with the qualities of mercy and common sense, lie the elements of hope and prophecy for succeeding generations. Whereas man, in his savage state, and in the subsequent epochs during which he has undergone civilizing influences, was the most cruel and heartless of all living creatures, he has demonstrated his possibilities of evolution toward the ultimate goal of humankind in gradually gravitating toward the truth contained in Baccarria's observation: "Penalties which go beyond the necessity of preserving the public weal are unjust." No longer does England inflict the death penalty for offenses ranging from a theft of thirty-five cents to the maximum crime of murder! Today, England has only four transgressions which are punishable by death, while the executions now held annually in all of France were once outnumbered by those inflicted in a single province.

Similar modifications of the treatment of offenders have obtained in all of the other civilized nations of the earth, a number of them having gone so far as to abolish the death penalty altogether. Is it not reasonable to assume, therefore, that as civilization advances, the useless severity of punishment will be constantly curtailed and ameliorated, and that the whole tendency of modern times is toward the ultimate universal abolition of legal executions?

Undeniably, the death penalty as a part of the Penal Code in Arizona, as elsewhere in the United States, still has numerous

supporters, each one of whom ventures one or more arguments to sustain his position.

The chief reasons advanced by those people who believe that the state should punish murder with murder, just as in olden times it was customary to burn alive a man convicted of incendiarism, may be grouped under four different heads. The first to be considered is the ancient theory of retribution; secondly, is the argument that the example afforded by the execution of the murderer will deter others from similar crimes; the third reason offered is the necessity of protecting society from its vicious members, and the fourth argument, which is included only by sufferance, is the extirpation of all capital offenders as a class.

As a passing commentary upon the arguments for capital punishment enumerated in the foregoing paragraph, it is worth while to quote briefly from Charles Sumner, the noted patriot and statesman, as follows:

“It is sad to believe that much of the prejudice in favor of the gallows may be traced to three discreditable sources: First, the spirit of vengeance, which surely does not properly belong to man; secondly, unworthy timidity, as if a powerful civilized community would be in peril, if life were not sometimes taken by the government; and, thirdly, blind obedience to the traditions of another age. But rack, thumb screw, wheel, iron crown, bed of steel and every instrument of barbarous torture, now rejected with horror, were once upheld by the same spirit of vengeance, the same timidity and the same tradition of another age.”

Little time need be devoted to disproving the tenability of the theory of retribution as a basis for the exercise of capital punishment. Although there are, deplorably, some individuals who offer it as a reason why the death penalty should be inflicted, their contentions are not supported by either sociologists or jurists, or, for that matter, by the state itself. The process of wreaking vengeance upon offenders against the law was long ago decried and discarded as a survival of savagery that has no part in modern civilization. The accepted belief is—and rightly so—that the state must be impartial and dispassionate in the enforcement of its laws, although society as a whole retains the inalienable right of self-

protection just as the individual citizens of a state are accorded the privilege of self-defense.

The visiting of vengeance upon transgressors is no longer tolerated in any scheme of civilized government. It is held, on the other hand, by those who have conducted the most exhaustive researches into the relations of individuals with their fellowmen that the state has a two-fold responsibility imposed upon it; firstly, its duty toward its citizenship as a whole, and secondly, its duty toward the individual violator of the law. In other words, the purpose of punishment in the broadest sense is, in the first place, to protect all citizens from the menace of criminal acts, and secondly, to place such restrictions upon the transgressor as will result in his reformation and the exemplification, through such measures, of the hazardous and disastrous nature of crime.

If, only the protection of society is desired, it could undoubtedly be accomplished by long terms of imprisonment much more effectually than by more drastic measures, provided only that the certainty of punishment for criminal acts should be firmly established. It is the certitude rather than the severity of penalties that exercise a deterrent influence. If an example carrying with it a horrifying admonition against the commission of crime is the only measure which would deter others from evil ways, then, to be logical, one must concede that the more severe the punishment, the greater the terror, and, consequently, the greater deterrent influence exerted upon all who might have opportunity to witness the operation of law. Following this argument to its only reasonable conclusion, capital punishment lacks the severity to teach a far-reaching moral lesson. We should, under this assumption, revert to the more awe-inspiring methods of earlier days. All executions should be in public and should be attended by citizens of all classes, including the children of our public schools. And then, after the state has imposed its punishment, the remains of the victim, as in olden times, could be dismembered and exhibited in conspicuous places, such as the market place or the town square, so that every passerby might have indelibly impressed upon his inner consciousness the gruesome fate that overtakes the wrongdoer. If a horrifying example is deemed a necessity for the pre-

vention of crime, then tortures and atrocities of innumerable kinds shall have found their justification.

Henry VIII of England sought to repress criminal tendencies by prescribing the death penalty for the most trivial offenses, such as theft and poaching, and by making a public spectacle of every execution inflicted in pursuance of law. During his reign of twenty years the death cart bearing condemned men rumbled almost daily through the public streets to the gibbet, and the total number of executions reached the appalling figure of 72,000. Of this number, not less than 70,000 were executed for larceny. Notwithstanding the severity and the publicity of the penalties applied, property rights were never as insecure in England as they were during the reign of Henry VIII, while other crimes flourished proportionately.

Instances are recorded, moreover, where many people, who viewed these executions conducted so liberally by England's most blood-thirsty king, were later convicted of capital crimes, notwithstanding their opportunity to witness daily the infliction of the most severe punishment upon other offenders. In fact, the entire abandonment in recent years of public executions in this country, as in others, must be attributed directly to the realization upon the part of the people that applications of the death penalty in city squares, or court house yards, have had the opposite effect from that which they were intended to produce.

It has been recognized, beyond all possibility of doubt, that the public execution is brutalizing and that it engenders in the minds of the people who behold it, emotions and ideas more dangerous to society than the condition which it is designed to correct. The power of suggestion is strong, and it is well known among sociologists that those people who have latent criminal tendencies, or who are deficient in will-power, are the most receptive to evil incitements. In this fact we find an explanation of the phenomenon represented by the occurrence of crimes in rapid succession in certain cities or other governmental subdivisions.

As an example, in one of the counties of the Territory of Arizona approximately twenty-eight murders occurred during a

single year just previous to the adoption of statehood, while the same county, for a similar period during the present state administration, has experienced only about one-third as many capital crimes. It may be permissible, furthermore, in refutation of the oft-printed newspaper statements to the effect that murder has recently increased out of all proportion to population in the State of Arizona, to present the fact that figures obtained from the superior court records of the state have shown that there were ten less murders in Arizona during the first eighteen months directly following January 1, 1912, than during a similar period immediately preceding the date above mentioned. It should be noted, also, that in the compilation of such figures no allowance has been made for the rapidly increasing population of the state.

Capital punishment has not been applied in Belgium since 1863; in Finland since 1824; in Holland since 1860; in Norway since 1876; in Portugal since 1867; and in Roumania since 1764. Even the benighted empire of Russia decreed in the year 1750 that the death penalty should not be inflicted except for military crimes, and after restoring capital punishment for a short period at a later date, the government renewed the abolition of it in 1907. Italy revoked its capital punishment law in 1888, and in Switzerland legal executions are retained in only seven of the twenty-two cantons comprised by that country. The death penalty is no longer inflicted in Argentine Republic, Brazil and Venezuela.

In this country capital punishment has been abandoned in the states of Maine, Michigan, Rhode Island, Wisconsin and Washington, while in the State of Kansas the application of the death penalty is contingent upon the signing of a death warrant by the governor. It is significant to observe, that, as yet, Kansas has not elected any governor who would affix his signature to a death warrant, and consequently the condemned men have remained in prison.

Dr. C. V. Mosby, one of the greatest living authorities on crime and its causes, has obtained letters from the attorney-generals of the five states of Maine, Michigan, Rhode Island, Wisconsin and Kansas to the effect that, since the abolition of the death penalty within their respective jurisdictions, no increase of

capital crime has been noted. During the thirteen years prior to the abolition of the death penalty in the State of Michigan there were thirty-seven murders as compared with thirty-one murders in the thirteen succeeding years. In the meantime, the population had increased by 50 per cent so that in this particular state there has been a decrease of forty per cent in the number of homicides. Excepting for a brief interval of four years, the State of Maine has refrained from inflicting the death penalty since 1876, and, in the meantime, that state has had less homicides in proportion to its population than any other state of the Union. Similarly it is shown by statistics that both Rhode Island and Wisconsin have enjoyed greater freedom from capital crimes since legal executions were abolished. The State of Washington prohibited capital punishment as recently as last year. Among those states which have retained the death penalty, nineteen have only one capital crime; nine states have two offenses punishable by death; three states have three maximum offenses; five states inflict death for four different crimes; two for six; one for seven, and but a single state has retained eight crimes entailing forfeiture of life. During the past ten years, Colorado, with its capital punishment code, has suffered more homicides than the adjoining state of Kansas, where no executive meanwhile has been willing to sign a death warrant.

Our ablest historians of past and present are authority for the statement that there was not as much crime in Rome under the Valerian and Porcian laws when capital punishment was abolished as there was during a later period following the restoration of the death penalty. Notwithstanding that the penalty of death is still inflicted in a great majority of the American states, statistics show that approximately 1600 homicides are committed annually in this country and that apparently the frequency of this particular offense is increasing. In view, therefore, of the fact that the number of murders has decreased, or at least has not increased in all of the states, which have abolished capital punishment, as enumerated above, it is very evident that the solution of the homicide problem is not to be found in the death penalty. Historians estimate that for a period of 600 years fully 80,000 people were executed annually on account of religious beliefs, but despite such

severity of punishment, Christianity has almost encompassed the civilized world. In this condition we find an additional illustration of how no penalty, by virtue alone of being brutal, has power to discourage human determination.

We may concede, therefore, the wisdom which Elbert Hubbard embodied in his observation when he said: "So long as the state continues to kill its enemies, individuals are going to continue to kill theirs." In other words, by retention of the death penalty, the state sets a precedent for the commission of the very crime which it is trying to extinguish. Far from teaching the sanctity of human life by its own conduct, organized government, in prescribing the death penalty for certain crimes, declines to uphold the sacredness of individual existence.

If we are in search of further proof that certain crimes are committed in cycles bearing slight relation to austerity of punishment, we may recall a fact firmly established in history, namely, that in France one of the ministers of justice once became convinced that crimes could not be diminished unless the number of executions on the guillotine should be increased. Accordingly, for a period of one year, every condemned prisoner, except one, suffered the maximum sentence of death with the result that in the succeeding year the crime of homicide increased by nearly fifty per cent. In brief, the effect of capital punishment upon the public mind may be summed up in the words of Robespierre, the great French revolutionist, who said with reference to legalized executions:

"They cause to germinate in the bosom of society ferocious prejudices which in turn again produce others. Man is no longer for man an object as sacred as before. One has a lower idea of his dignity when public authority makes light of his life. The idea of the murder fills us with less horror when the law itself sets an example and provides the spectacle. The horror of the crime diminishes from the time the law no longer punishes except by another crime."

The great reign of terror occurring two years after Robespierre endeavored to secure the abolition of the death penalty offers a vindication of his expressed opinion concerning legal killings.

Even though the public execution has become a rarity, as attendance at such events is usually restricted to the recipients of official invitations, the effect upon the public is very much the same as it would be under a system of free admission, since the newspapers usually contain graphic descriptions embodying all the gruesome details of the manner in which the majesty of the law has been upheld. Thus the state appears in the same homicidal role as its victim, except that in the case of the individual the murder is committed illegally, whereas the state perpetrates a so-called lawful killing.

To attempt to discover, on grounds of morality, any distinction between murder and legalized execution is the sheerest quibbling. The only instances recorded in law as murder extenuated, and in a degree justifiable, are an officer's act in killing one who is resisting arrest, the course of action of any individual who slays in attempting to prevent the committing of some forcible or atrocious crime, and the deed of homicide committed either in the heat of passion, by accident or in self-defense. In none of these conditions can the state find a justification for capital punishment since a deliberate execution is not extenuated by any of the circumstances enumerated above.

There remains one argument which is advanced in support of the death penalty, and which has as yet received only a casual mention. I refer to the contention that legal executions are advisable for the purposes of decimating the murderously inclined and thus eventually eliminating from the race those types of individuals who possess dangerous criminal tendencies. The fallacy upon which this argument is based is so apparent that a paragraph or two will serve to dismiss it. To admit of its tenability is to accept the assumption that criminals, and particularly murderers, belong to a certain well-defined class separated from their fellowmen by a conspicuous line of demarcation. The absurdity of such a premise is manifest to anyone who has had opportunity to come in contact with and observe offenders against the law and especially such offenders as are guilty of homicide. With the exception of a few vicious types, which are criminally degenerate, and

which, in many instances, are fitting subjects for an insane asylum, the men and women who commit homicide are not radically different from other people, with whom we have been wont to associate, from day to day, and in numerous cases, to accord such respect and companionship as forms a part of ordinary human relations. It is safe to assume that most of us have at one time or another, been surprised to witness the dereliction of some of our associates and to observe the surprising spectacle afforded in the commission of murder by a citizen who had hitherto enjoyed the almost universal respect of his community. From day to day the newspapers inform us of the sudden lapse into crime of men, who by their intelligence and seeming integrity have gained a prominent place in the world's affairs. These people had plainly not been regarded as criminals; otherwise they would never have attained the rewards of industry or important positions of trust, but under the duress of anger, or cupidity, of ill health, or other equilibrium-destroying forces they have yielded to an evil suggestion and so have joined the ranks of convicts. In most such instances, where the offense is homicide, there is, even with liberty regained, no recurrence of the transgression. Eliminating these people from the race by the execution of the death penalty precludes any possibility of the offender's reformation and at the same time confers no benefit upon our citizenship as a whole, for the example afforded by their execution is not nearly as lasting as that which might be derived from indefinite imprisonment.

In the case of a degenerate afflicted with homicidal mania, the same rule would not apply, but to execute such offenders is but one step removed from a practice which would not be tolerated by civilized people, namely, the chloroforming or other speedy elimination of insane patients. The theory of extirpation, therefore, as a possible justification for capital punishment, evidently has no basis in either reason or morality.

Virtually all murderers are included in one or more of three classes as follows: Those who deliberately plan a crime, hoping to commit it without detection and subsequent exposure; secondly, those who kill in anger without prolonged premeditation; and, lastly, those who are either deficient or degenerate, or who suffer

a temporary impairment of reasoning power and other faculties which under normal conditions would deter them from desperate acts.

Nothing can be more apparent than the fact that the prospect of the death penalty will not exert a strong deterrent influence on any of these three classes. It is characteristic of criminals, who deliberately plan crimes, to first convince themselves that they will escape detection, and, therefore, since they do not anticipate any expiation of their offense, they are not retarded in any appreciable degree by such penalties as may be prescribed.

It is likewise true that a man enraged through a sense of being wronged, or other kindred emotions is in no mood to weigh the result of his acts, or to take account of punishments confronting him.

With reference to the mentally deficient and congenitally degenerate type of murderer, it should be clearly discerned that a person with mental faculties impaired and with moral vision clouded by organic disorders exercising a direct influence upon the brain is not a responsible being to the extent that he would calmly reflect upon the consequences of any lawless acts which he might be disposed to commit. The inevitable deduction therefore, is that the embodiment of force in penalties for the infraction of law will never constitute a preventative of acts of violence. It is characteristic of most people who contemplate crime to first become convinced of their own justification. A man in such a frame of mind is in no sense prepared to anticipate penalties.

There is, regrettably, a disposition on the part of some of our most worthy citizens to bring passages of Scripture to the support of capital punishment. We have heard unto the point of weariness the quotation of the old Mosaic law of "an eye for an eye and a tooth for a tooth." We do not hear so frequently, however, of Christ's own allusion to the Mosaic law in the following words, "Ye have heard it said in olden times, 'An eye for an eye and a tooth for a tooth,' but I say unto you, love your enemies and pray for them that despitefully use you." If anyone, however adept in placing construction on the English language, is able, in the light of these words, to attribute even tacit support of the

death penalty to the Saviour of Mankind he will exceed all bounds of mental agility within my comprehension. Again, we hear from those who would quote the Bible in justification of legalized murder, the citing of that part of the sixth verse of the ninth chapter of Genesis which reads as follows: "Whosoever sheddeth man's blood, by man shall his blood be shed." This has been very effectually answered by a statesman with whose greatness every school child in America is familiar. I refer to Benjamin Franklin, who, in commenting upon the relation of the Old Testament to the death penalty, uttered the following words: "This (alluding to the scriptural passage quoted) has been supposed to imply that blood could only be expiated by blood. But I am disposed to believe with the last commentator on this text of Scripture, that it is rather a prediction than a law. The language of it is simply that such is the folly and depravity of man that in every age murder shall beget murder. Laws which inflict death for murder are, in my opinion, as un-Christian as those which justify or tolerate revenge; for the obligation of Christianity upon individuals to promote repentance, to forgive injuries and to discharge the duties of universal benevolence is equally binding upon states."

In concluding our consideration of the relation of the death penalty to Christianity, we may reflect that our Lord is the author of the words, "Vengeance is mine," and that the Pope has never permitted the infliction of capital punishment within the territories over which he had direct jurisdiction.

We find then, in the last analysis, that capital punishment as an institution, can rest upon only one ground, that of expediency and necessity. The state which retains the practice, therefore, must, in effect and in justification of its policy, concede that the infliction of the death penalty is based upon tradition, is in violation of accepted moral codes and is un-Christian, but, nevertheless, is "necessary." In substance, therefore, the state avers that human life is a thing so devoid of sanctity that it can be disposed of at will and by popular vote. Under such a dispensation there is no security for individual existence, nor is there any logical and comprehensive plan of justice. Human judgment is known to be deplorably fallible. It has erred grievously and tragically for

centuries, taking at times the lives of innocents, pursuing at other periods the dictates of unscrupulous monarchs, and in still other epochs has followed the blind and unreasoning lead of ignorance armed with power.

How clearly was this seen by John Bright, the illustrious English statesman, an author who lived and died in the 19th century, and who gave his valuation of death as a penalty in the following words:

“The real security for human life is found in a reverence for it. If the law regarded it as inviolable, then the people would begin also to so regard it. A deep reverence for human life is worth more than a thousand executions in the prevention of murder, and is, in fact, the great security for human life.

“The law of capital punishment, while pretending to support this reverence, does, in fact, tend to destroy it. If the death penalty is of any force in any case to deter from crime, it is of much more force in lessening our chief security against it, for it proclaims the fact that kings, parliaments, judges and juries may determine when and how men may be put to death by violence, and familiarity with this idea cannot strengthen the reverence for human life. To put men to death for crimes, civil or political, is to give proof of weakness rather than strength, and of barbarism rather than Christian civilization.”

Few people, it is safe to say, are so unreasoning and so devoid of observation as to contend that courts and juries are infallible. Should they attempt to advance such an argument, countless facts of record and numerous current events would promptly serve as a refutation. Chief Baron Kelly is sponsor for the statement that during the period between 1802 and 1840, twenty-two men were erroneously convicted of murder in England and that of this number seven were hanged. Another intelligent authority, Sir James McIntosh, who has a reputation for conservatism, has made an estimate covering a longer period of time to the effect that an innocent man is hanged in England every three years. Only recently the newspapers of Arizona quoted Warden Clancy of Sing Sing prison as saying immediately after the execution of the four

so-called New York gunmen, that two innocent men, in his opinion, had been electrocuted. If the state can successfully contend that it is not guilty of murder in executing a human being who is adjudged a menace to society, what answer has it to offer when an innocent man, through process of law, is hurled into eternity? In such a case there does not exist even the necessity for society's protection, nor is there any other known cause to justify the hanging or electrocution, as the case may be. It would appear conclusively, therefore, that in such instances the state, and consequently, the majority of its electorate, become murderers without any possible extenuation since the act of killing is both premeditated and deliberate. As long as capital punishment is retained in our written law, innocent men will continue to be convicted and executed, and regardless of how much new evidence may be discovered subsequent to the execution to prove the innocence of the victim, there is no redress that can be offered a dead man, and, hence, the majority of the state's voters stand convicted for all time of inexcusable murder.

It is only in recent years that people have become alert to the responsibility of society as a whole for the prevalence of crime as a condition and for the existence of the individual with a tendency toward criminal acts. In reviewing the life records of the inmates of the Arizona State Prison one finds that the great majority of such men were denied in early life the advantages and environment necessary to the development of good citizenship. It is well worth while to question to what extent a man is culpable when his boyhood has been nurtured in infamy, environed by squalor and privation, and excluded from opportunities for moral training and general education, in brief, so ordered as to lead logically to a life of vice and anti-social conduct.

Society can never disclaim the creation of conditions which, in turn, produce crime. In the last analysis, therefore, the burden of the crime problem as a whole, and so far as the individual factor is concerned, rests directly upon our social system and upon all the people constituting the state and the nation. If, in its tardy evolution, organized society has been remiss in the sustenance and guidance of its most unfortunate members, is it thereby entitled through exercise of its power, to summarily dispose of those who

transgress or to visit upon them the most inhuman and barbarous punishments without taking cognizance of the degree in which the so-called criminals are victims of environment and, therefore, of natural laws? I contend that any such assumption should be a source of shame to a civilized nation and that, on the contrary, it devolves upon every one of us individually and collectively to direct our energies toward the improving of general industrial and social conditions and to affording such education and environment as will promote the morality of all citizens and impress vividly upon the public mind the sacredness of life and the imperative necessity of providing every convict who is not congenitally disqualified, with such restrictions and such training as will result in his reformation.

The two extremes denoted in the terms "idleness" and "drudgery" beget fully ninety per cent of all crimes committed. When a man by virtue of his wealth is placed so far above the average citizen as to feel himself unaccountable to society as a whole, or when, on the other hand, he is submerged in such a condition of industrial servitude as to have abandoned hope for the future, he is, in either event, an easy prey for criminal suggestion and for the vices that beset the human race. Another phase of such a condition is represented in the fact that the striking contrasts between riches in one quarter and extreme poverty in another tends to engender a spirit of anarchy and revolt against a system which is manifestly unfair and replete with rank injustice. Continuing further, it is evident that the purpose of punishment is two-fold. It devolves upon the state, firstly, to reform the offender, so far as reformation is possible, and secondly, to create by the application of punishment devoid of brutality, but nevertheless plainly correctional, such an example as will prove a prolonged and not merely ephemeral illustration of the direful fate which inevitably must overtake the criminal. By such a plan society is enabled to perform its duty toward its individual members and at the same time provide itself with the safeguards necessary to its permanent well-being.

As a means to such an end life imprisonment, or at least such

terms of imprisonment as will impose definite and certain penalties for the crime of murder can be sustained by several arguments for every one that is erroneously propounded in defense of capital punishment. Under such a system of penology every opportunity is afforded for the reformation of the convict; while, so long as he is confined within prison walls, he is living evidence of the verity that the way of the transgressor is hard. Although his punishment is not consummated in legalized murder, it involves such indefinite servitude as will impress upon the prisoner himself and upon all other people the seriousness of going wrong. In the meantime, the convict's labor is being given to the state, whereas a dead man has no value. As a practical measure, a long term of imprisonment is shown by statistics to serve better than capital punishment for the prevention of homicide. It sets at rest, furthermore, all qualms of conscience and all well-founded scruples as to the right and wrong of punishing murder with murder in violation of the tenets of ordinary morality and of the Christian faith. It should provide, with adequate legislation as an auxiliary, for absolute certainty of punishment for the crime of murder. This point is more important than most people would readily suspect, since the records of the different states of the Union show conclusively that for every fifty-seven homicides there is only one infliction of the maximum penalty, a fact which may be partially attributed to the horror inspired by legal executions and the reluctance of juries to prescribe the capital punishment. If the offender be rich and powerful, he is likely to escape punishment altogether, or be turned loose after a few years of penal servitude. If he is neither rich nor powerful, but still is a man of some reputation and has friends to intercede in his behalf he may obtain a light sentence or be pardoned by an executive amenable to external influence. It is very seldom that a man possessed of either wealth or reputation pays the maximum penalty for murder. Such a system is nothing more nor less than the sublimation of class legislation and of discrimination based upon caste. The ignorant, the obscure and the improvident become most often the victims of the hangman, while the educated, the influential and the affluent usually suffer only the minimum penalty.

In the death chamber at the Arizona State Prison are the photographs of five men on whom the death trap has been sprung since the penitentiary was moved from Yuma to its present site at Florence. The records pertaining to each of these convicted men show that invariably they were devoid of both financial means and education. That gruesome gallery of photographs, each one of which is framed with the hempen rope that performed its deadly mission, does not exhibit the likeness of a single offending citizen to whose relief from a hapless plight the influence of wealth or reputation could be mustered. What is true of the death record at the Arizona State Prison is true in the main of the record of every penitentiary in the United States. Litigation is expensive and the amount of it that is done in behalf of any man charged with a serious crime is generally measured in terms of dollars and cents. Penury attracts few lawyers and seldom provides for appeals to supreme courts, or for yard-long petitions in behalf of executive clemency.

To summarize further, a punishment consisting of imprisonment precludes the possibility of executing such innocent men as may be convicted through the fallibility of even the most conscientious courts and juries. It also alleviates to a very considerable extent the deep grief and woe into which innocent wives, children and other relatives are plunged by the downfall of husband, father, brother or sister, as circumstances may decree. It, furthermore, lends feasibility to a plan which I strongly advocate, namely, the employment of prisoners convicted of homicide in such a way as will enable them, after rendering in behalf of the state the actual cost of their maintenance, to apply all the usufruct of their earnings under compulsion of law toward the support of such mothers, wives, children and other immediate relatives as may have been deprived of sustenance by the act of violence that curtailed the life of a bread-winner. Under the system of capital punishment, a man convicted of murder is summarily executed, while the family of his victim is frequently left to struggle for a livelihood as best it may, or, as in countless instances, to become a public charge. It does not seem unreasonable, therefore, but, on the contrary, highly practicable, to demand that a man who kills another shall thereby assume the responsibility, while expiating his crime within prison walls, of devoting a certain percentage of

his earnings during his natural life, or until the termination of his confinement, toward providing support for the family against whom his crime has worked an irreparable injury. Indemnity is an age-old principle of government. It is resorted to by most nations as pecuniary redress for a subject killed in a foreign land. Why, therefore, has not the needy family, which is deprived by an assassin's act of its means of support, an incontrovertible right to realize from the source of its misery at least some partial means of sustenance for the future? It argues very poorly for the state if it cannot, with proper legislative co-operation, provide its penitentiary with such equipment as will enable all convicts to be profitably employed and thus bring it about that a man imprisoned for life, or, for that matter, for a shorter term, shall become a source of revenue, equivalent at least to his actual maintenance plus an increment of varying proportion, which could be applied to the support of either his own relatives or to the family of his victim as conditions might render advisable.

In the light, therefore, of past experience, the death penalty has no justification either as a utilitarian measure designed to prevent crime, as a practice inducted by expediency, or as a measure sanctioned by such accepted moral precepts as have been evolved from civilization's onward march. In view, furthermore, of the clearly defined tendency of the times toward the exemplification of brotherly love and of mutual interdependence among the members of the human family the world over, there is no ground for apprehension lest Arizona eventually, together with all other states of the Union, will place the ban upon a procedure so at variance with real progress as is the custom of opposing crime with crime and of compounding one murder with another.

The election in November next, at which the people of Arizona, through the exercise of the initiative, will be enabled to express their accurate sentiment as to the right or wrong and the usefulness or futility of capital punishment, will determine whether or not the citizenship of this commonwealth is responsive to the urge of genuine progress or is willing, on the other hand, to have Arizona go on record as a state in favor of continuing a system which makes of every voter belonging to the majority a potential if not an actual murderer.

In the Arizona State Prison 13 human lives await the award-

ing of your decree and mine as to whether or not they shall be plunged with the shadow of crime fresh upon their souls, and without opportunity for earthly expiation, into eternity's abyss. Confronting such a situation, every voter becomes a juror charged with the duty not merely of determining the immediate fate of a single human being, but of a dozen or more. It seems incredible that Arizona, progressive and upright in all things else, would prove so blind to the welfare of present generations and of posterity as to allow the survival of a brutal and debasing penalty compatible, perhaps, with the shadowy past, but not with the age in which we live.



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