

THE DEATH PENALTY.

The main reason for the punishment of criminals, from a Governmental standpoint, is its action as a deterrent. For this purpose it must be swift, certain and sufficient. If it is not all of these it is largely ineffective and useless. It will be, moreover, in the eyes of the criminal, more or less contemptible, and may be in the long run even more harmful than helpful.

If this be the case as to so-called minor offences, how much more important when the crime is murder, which, in the thought of both God and man, is the greatest of all crimes. It deprives a fellow-being of his most sacred and valued possession. If life be taken it cannot be restored; there can be no atonement; and retribution is impossible; the victim, moreover, is too often the breadwinner of the family, and heartbreaks and poverty result. Death is the nearest approach to an adequate punishment.

There has been, of late years—partly due, it may be, to the Great War and partly because (as students of prophecy claim) this condition of things is now due—a marked increase in crimes of violence. This increase is now directing men's minds to the consideration of remedial measures. These are necessarily more especially within the sphere of the law, of lawyers and of law-makers.

The subject has, consequently, often engaged the earnest attention of the Bar of the United States, where the crimes of murder are most in evidence. It is also being discussed in legal circles in Canada, and has lately been referred to in an interesting article in the November number of the *Canadian Bar Review*. The writer of that article draws special attention to the desirability of retaining and enforcing capital punishment in cases where under our law it is enacted as the appropriate penalty. He says: "The question of crime and its capital punishment in all its aspects is one that calls for the most unimpassioned and enlightened examination on the part of those who presume to deal with it, and no solution of it will be either wise or workable if it ignores the maxim that lies at the very base of our social structure: '*Salus populi est suprema lex.*'"

There is, however, one aspect of the subject to which attention is seldom called, but which is really the most important. The careful and accurate student of history goes back in this study, as in others,

to the beginning of things. The first pronouncement on the subject is naturally to be found in the oldest historical book, viz., the Bible—we there find that crimes of violence and lawlessness so abounded before the days of Noah that, with one sweep, the whole human family, with the exception of eight persons, was wiped out of existence. Then began a new dispensation, which writers on the subject call the Dispensation of Human Government; and humanity was subjected to a new and different test. We here quote what an eminent authority says on the subject:

“The distinctive feature of this age was the institution, for the first time, of human government—the government of man by man. The highest function of government is the judicial taking of life. All other governmental powers are implied in that. It follows that this dispensation is distinctively that of Human Government. Man is now responsible to govern the world for God.”

LAW OF PUNISHMENT.

The first ordinance of this government is recorded in these words: “And surely your blood of your lives will I require; at the hand of every beast will I require it and at the hand of man will I require it; at the hand of every man’s brother will I require the life of man—whoso sheddeth man’s blood, by man shall his blood be shed, for in the image of God made He man.” (Gen. 9: 5-6).

This settles the question of capital punishment for all time; for this ordinance was not for that time only or for that dispensation alone, but for all time and on down through the ages.

The law thus ordained was confirmed by the Mosaic Code, so largely used by legislators in later centuries. It was also recognized as still existent by our Saviour and by writers in the New Testament.

This phase of the subject was recently dealt with at a conference of the Lutheran bodies of the United States at a meeting held in Chicago in September last. Their pronouncement is so apt and cogent that we gladly quote it as follows: “A most baffling situation confronts us to-day. On the one hand heinous and atrocious crimes are being committed in ever increasing numbers, crimes that shock and outrage every righteous citizen; on the other hand, we hear of persistent agitation for the abolition of capital punishment and a plea for mercy to the criminal. Those favoring the abolition of capital punishment, frequently quote the Bible in support of their claims. It is for this reason that we wish to emphasize the fact that capital punishment is entirely Scriptural. As a retribution for wilful and premedi-

tated murder the Bible clearly enjoins capital punishment. In Genesis 9: 6, as we have seen, "whoso sheddeth man's blood, by man shall his blood be shed, for in the image of God made He man."

Nor was this Divine injunction repealed or modified in the New Testament. On the contrary, the Apostle Paul upholds it, when he writes to the Romans (13: 4): "He (the ruler, the Government) beareth the sword (the instrument for capital punishment in those days) not in vain; he is the minister of God, a revenger to execute wrath upon him, that doeth evil." The deterrent effect of capital punishment is stressed in these words: "If thou do that which is evil be afraid, for he (the ruler) beareth the sword not in vain." (Rom. 13:4).

The enlightened conscience of every age has demanded and still demands capital punishment for the crime of murder. Fashions may change, but mankind and his lusts and passions are the same to-day as they were in the day that Cain murdered Abel. There was apparently no such law at that time, but the failure of man in the "Dispensation of Conscience," as that age or dispensation has been styled, called for the ordinance when the need for it had been seen, and so when man was told to take up the reins of government this law was imposed on him by a wise overruling Providence, and still appears on His statute book; and the matured wisdom of mankind has almost universally obeyed the Divine command. Nor, in view of what we have seen of juvenile depravity in the past few years, is this the time to listen to the maudlin sentimentalism which unwisely asks for the abrogation of the death penalty on the ground of youth alone. Boys and girls now become men and women at an earlier age than in days gone by.

Some of the results of disobeying the law of a death penalty for murder are collected in the pages of the Canadian Bar Review. In Switzerland capital punishment was abolished in 1874, but within five years, owing to the marked increase of murders, it was restored. The same thing has happened in some of the United States of America, such as New York and Iowa, etc. In Italy the death penalty was abrogated in 1888, but was followed by a great increase of crime. The same result has been noticed elsewhere. The writer of the article referred to quotes the saying of Aristotle that "the bulk of mankind obey for fear," and the greatest fear is the fear of death. Carlyle derides the sentimentalists as "the barrenest of mortals." The same pen quotes two writers of eminence, who assert that the just punishment for crime is for the moral good of the criminal himself, as well as to his life in this world as to that elsewhere.

The vicious man who has a lifetime in which to repent will probably put it off too long; whilst the same man who sees the gallows building and stares death in the face will probably be frightened into a realization of his peril, and will stretch forth his hand to grasp the pardon which a merciful, as well as a just, God is only too glad to give, even to a repentant murderer. If this be so as to him, it cannot but be helpful to others also, and must be a factor in any attempt to uplift humanity to a higher level.

HENRY O'BRIEN.

Toronto.

THE AFTERMATH.

Those of us who were not fortunate enough to personally attend the gathering of lawyers in England and France are only now commencing to realize what the real significance of that event was. It is as we meet those who were there and talk to them, or as we read their accounts of it all as they appear from time to time in different publications that we begin to realize its wonderful international importance. Perhaps the most interesting contribution to this end that we have seen is a pamphlet which has been issued for complimentary distribution by Frank Shepard Company of 76-78 Lafayette St., New York, containing articles written by eleven lawyers of the United States in competition for a prize offered by that firm for the best paper setting out the impressions gained and the constructive thoughts provoked by the occasion. These lawyers come from all parts of the States, and any Canadian lawyer will be well advised to write and ask for a copy of the book. May we venture to hope that the supply will be equal to the demand.
