

THE RESTORATION OF WHIPPING AS A PUNISHMENT
FOR CRIME.

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ABOUT the middle of the last century a wave of humanitarian sentiment rolled over the civilized world. It began in the United States and ended in Europe. It brought with it many good things. It left behind it also a certain amount of sediment. Part of this sediment was a mushy conception of the relations of criminals to society. What was society to do with them? Were they, after all, very much in fault? Had they not been children of evil, by inheritance from ancestors for whose rascality or its consequences they ought not to be held responsible? What right had one man to punish another? Was that not an affair that belonged solely to God?

Under the influence of such considerations, whipping was struck out of the criminal codes of Southern Europe, and of most of the American States. Of late years, it has been reinstated in a few. Has it been rightly reinstated, and has little Delaware been wise in always retaining it?

I am one of those who would answer both these questions in the affirmative. I believe that human government exists by the permission of God and in some sort represents divine justice on earth. I believe that for grown men the main object of criminal punishment should be to punish, and that reformation is a secondary matter, and generally a hopeless task.

The moral sense of the community demands that he who has committed some act of criminal violence against his neighbor should be caught and made to smart for it.

The criminal is generally a utilitarian. He has committed the crime because it will bring him, he hopes, a certain good, and at worst can only entail upon him a certain evil. This possible evil is remote and contingent. The good is immediate. Society

must make the evil heavy enough and distasteful enough to outweigh the element of uncertainty and distance.

To measure out punishment in all cases of serious crime by so many months or years in jail is to use but a rough yard-stick.

A London magistrate of long experience, Sir Edward Hill, once said that long sentences make very little difference in their deterring influence upon criminals as compared with short ones for the simple reason that the criminal classes are devoid of imagination. They do not and cannot picture to themselves the dragging monotony, year after year, of prison toil, or month after month of prison idleness, with that vividness and sense of reality with which it strikes an industrious citizen. Whether they are sent up for two years or for twenty seems to them of slight account.

No sentence in a county jail, be it long or short, is greatly dreaded by a hardened criminal. It gives him in most cases an assurance of better housing and of better food than he is in the habit of gaining by any other mode of exertion. He has never taken into his soul the full measure of the good of liberty. It is not a good, except so far as its possessor knows how to make good use of it; and that to him was never known, or but half known.

On the other hand, whipping is dreaded by every one, man or child. We shrink from it first and most, because it hurts.

It is no degradation to a boy to be whipped by his father, or by his master at school. That is not his objection to it. He feels that it is a reasonable and natural consequence of misdoing, and leaves him better rather than worse. The sailor and the soldier, until recent years, met it in the same way, and with no loss of spirit or loyalty to their

flag. Custom, for them, had dissociated it from disgrace. It was simply retribution. In civil life, however, to the grown man, it is and always was a mark of degradation in the eyes of the community. But as a penalty for crime, it is a consequence of degradation, rather than a cause of it. It was the crime that really degraded.

The criminal dreads whipping mainly, as the boy does, because it hurts. A French physician at the head of the great prison hospital at Toulon, in a work on the characteristics of convicts, has said that the abolition of punishment accompanied by torture has resulted in greatly augmenting the number of homicides. A convict, whom he quotes, had been sentenced to fifty stripes. "Ah," said the man, "that is worse than fifty strokes of the guillotine. One suffers during it, and after it, too."

Let us admit that degraded as such a man is by his brutal act and the brutal heart behind it, he is further degraded by the whipping to which he may be sentenced. So far as concerns his relations to his particular friends and associates, he ought to be, and this, however we may deplore his fall in the eyes of the world at large, is a strong argument for the infliction of this particular penalty. The social sting often goes deepest. A man hates to lose caste among those with whom he associates familiarly. The term "jail-bird" shows how the community regards the man who has been once sentenced to imprisonment. But his mates often look upon him as none the worse for it. He has simply been unlucky. Let him be stripped and put under the lash, however, and he sinks in their estimation. It may, indeed, have another good tendency from that very fact. It may drive him from out of their company, into that of honest men again. But, be this as it may, to flog one criminal deters, by the very disgrace of it, hundreds from crime.

To boys it could bring little of discredit or disgrace. It is a remedy that the world has always recognized as belonging to their

time of life. In the great schools of England birching has been freely dealt out by the best teachers, and it brings no shame, unless there be a want of pluck to stand it bravely.

In Scotland whipping was strongly recommended as the general punishment for juvenile offenders, in a Parliamentary Report presented in 1895, by a Departmental Committee appointed to consider the subject. In 1893, three hundred and thirty-five boys had been thus flogged instead of being sent to jail; in 1894, two hundred and sixty-eight; but the effect of this report was such that in 1898, there were four hundred and sixty-eight sentences to whipping and only three hundred and thirty-eight to imprisonment, while there was a diminution of the total number of juvenile offenders convicted by one hundred and seventy-eight.

Virginia, in 1898, reverted to a similar policy by a statute authorizing whipping to be substituted for fine or imprisonment, at the discretion of the court, as the sentence upon a conviction for crime of any boy under sixteen years of age, provided the consent of his parent or guardian be first given.

Let any one familiar with the administration of criminal justice, and desirous to make it better, turn the light of his own experience on this subject; and as he looks back on the monotonous routine of the police court, with its sentence after sentence inflicted on the habitual rounder, to whom the jail has become a home, he must see cause to consider if one good whipping at the outset might not often have saved what has been not simply a wasted life, but a life that has wasted the property of the community and the peace of the State.

To replace whipping in the list of permissible punishments would not, of course, involve the restoration of the whipping post, nor is it a penalty appropriate to every case. Let it be inflicted in private, and, when upon grown men, for such offences only as involve the use or threat of great personal violence or indignity to another; unless, as in India,

it be added to the sentence of habitual criminals, upon a third or fourth conviction.

Nor should the cat-o'-nine tails or any similar instrument of torture be used. The birch or the leather strap will be sufficient for the purpose.

The country was horrified, a few weeks since at the threat of the scoundrels, who kidnapped young Cudahy in Omaha, to put out his eyes unless his father gave them twenty-five thousand dollars. It is doubtful if they would have been base enough to do it, had the ransom demanded not been paid; but to make such a threat deserves the lash, and to fulfil it might well justify a sentence to a dozen whippings, with suitable intervals of a few weeks for reflection and anticipation between.

A robber in another State recently burned an old man's feet with a red hot poker, to make him show where his little savings were hid. That ruffian would be insufficiently punished by a mere sentence to imprisonment. He needs the sting of something sharper.

Such crimes will increase as the wealth of the country increases, unless the consequences of conviction are made more disagreeable to the offender. The way I suggest is one, and it comes to us with the sanc-

tion of the approval of the whole world in all former generations down to within a hundred years.

Economy is also a matter worth some consideration.

Eugene Smith of the New York bar, in an address before the last meeting of the National Prison Association, estimated the taxes annually imposed in the United States for the repression and punishment of crime at two hundred million dollars. A large part of this goes to the maintenance of jails and prisoners. They probably cost the public (making due allowance for interest on what was laid out on buildings) not less than one dollar and a half a day for each convict, over and above all he can be made to earn by prison work. Instead of spending five hundred dollars to keep some kidnapper or wife-beater in jail a year, suppose that he were kept there but half that time, and given a dozen lashes at the end of each two months. A leather strap that costs a dollar would save two hundred and fifty dollars, and I venture to say that he would seldom be found to come up for a second offence. In Connecticut, where whipping was in use for two hundred years in criminal sentences, no white man was ever whipped twice.

KNICKERBOCKER GOLF AND OTHER FORBIDDEN SPORT OF NEW NETHERLANDS.

BY LEE M. FRIEDMAN.

WE think of golf as a recent importation into the United States. We never imagine that it was a pastime of the burghers of New Amsterdam. When we think of these ancient Dutchmen of Manhattan taking recreation, immediately we picture a group of portly fellows lolling at their ease, smoking long-stemmed pipes, with tankards of ale within easy reach. Perhaps, if the

"Rip Van Winkle" legend has sufficiently corrupted our imagination, we associate a slow game of ten pins with the wild dissipation of the younger Knickerbockers.

The ancient records, however, throw a new light upon the subject and prove that these old Dutchmen were ardent golfers. In 1660 the Worshipful Commissary and Commissaries of Fort Orange and Village of