

immunity from punishment, while it visits a penalty upon the other. The inherent evil lies not in the overt act directed to the hurt of the member wronged, but in the manifest disregard of the rights of the State and its lawful authority to govern the conduct and restrain the vices of its citizenship. It is merely a step on the part of the State to repel the attack of one who has become an enemy to the social organization. The injury may be to some individual in the invasion of his personal rights, but the crime is against the society by the violation of the established compact. To remedy the one may be quite impossible, but to punish the other with sufficient severity is the imperative duty of the State.

Of course, in its highest sense the object of all punishment is the protection of society—the effort on the part of the State to perform and carry out its obligation to individuals to protect them in the exercise of their personal rights. As the ultimate right to punish is public utility, so the ultimate aim is public protection. Its purpose is to deter men in the commission of wrong. The specific divisions most universally recognized as the objects of punishment are, first, punitory—that is, for the infraction per se of the law; second, reformatory—that is, such as should improve the temperament of the offender; and, third, exemplary or prohibitory—that is, such as should intimidate those who might be tempted to imitate the guilty.

Capital punishment necessarily excludes the reformatory object. It excludes also the punitory theory, for the ancient rule of a life for a life as just, per se, is entirely obsolete in nations of advancement. It is therefore dependent solely for its legitimate infliction upon the prohibitory principle; its sole object is to deter those yet innocent of actual violence, but evilly inclined, from the commission of those offences for which death is prescribed. It is, of course, in this prohibitory object of punishment that the social body at large is the most concerned. It is by far the most important object of punishment, and particularly so in reference to punishment of those serious crimes for which death is usually assessed. It is well enough, and the unquestioned duty