

Let us now refer to some of these matters at such length as space will permit :—

2. The object of punishment and the treatment of criminals.—

In Canada, as well as in Great Britain, there is a steadily increasing recognition of the sound doctrine that reformatory treatment of criminals ought to be substituted for retributive punishment and that the primary object of punishment is the protection of society. There are a number, however, who yet believe that the main purpose of criminal legislation is to punish offenders against the law rather than to protect the community. The changes of view on this question have been various and remarkable.

It is only within the last hundred years that any serious effort was made by legislators to study and understand the cause of crime. The system of trial and punishment prior to the nineteenth century was barbarous and brutalizing. The mental condition of the offender was very little regarded and his opportunity for defending himself against a charge was very slight. Perhaps however it would not be accurate to describe the legislators of the eighteenth century as deliberately cruel in maintaining such laws.

At that time the criminal population was an unexplored social strata. The legislators seemed impressed with the belief that the criminal would be certain to remain a criminal until he died, and that therefore the sooner that event was accomplished the better for the community. There were nearly two hundred cases of crime punishable by death. If the hanging of the accused did not cure him of his inclination to steal, or to commit similar offences, it at least prevented him from repeating the offence. As criminals in their actions, to use the phrase of the old indictments, were "moved by the instigation of the devil," the law was ready to send them to their instigator without undue delay. Instead of punishment being inflicted in the spirit of patient duty, the feeling of vengeance seemed to be the dominant influence in dealing with criminals at that time. The criminal had injured society and therefore society was entitled to wreak prompt and effective vengeance upon him.

Subsequently an arrangement became popular by which many criminals in England were given away as slaves to Western planters instead of being kept for the dungeon or scaffold. This was considered a merciful innovation, or at all events it answered