

when vested in the State alone, and demands the most zealous restrictions. Every element of personal vengeance must be wrested from it. It is in recognition of this necessity that the right is taken from the individual injured by the wrong and vested in the political organization. As has been said, the wrong which calls forth the penalty is most ordinarily the violation of a private right of some other individual. The party thus injured has by his membership in the State divested himself of his original right of personal retaliation. To punish is by necessity and by the principles of the public compact solely the sovereign prerogative; the State, so to speak, has become subrogated to the retaliatory right of the individual—the right to punish is transferred to it.

However, it is of course, not the purpose of civil punishment to restore the wronged member to his former state. It would be a vain system that had for its aim the restoration of that one whose rights have been invaded by the commission of the wrong. Even the ancient law of retaliation, *lex talionis*, formerly in vogue, but now obsolete for its very apparent defects, signally failed of this end. A life for a life, or an eye for an eye, may appear in strict harmony with the original conception of abstract justice, but the death of the criminal cannot restore the life of the citizen, nor the loss of his sight the vision of his victim. Besides, penalties are not inflicted for wrongs done, *per se*, to other members of society, but rather for the offence against the State by the attack on one of its members and by the violation of the compact. Men are not hanged for the wrong done the members in the taking of his life, but for the crime thereby committed against the State; to protect the political body from his further depredations, and, *chiefly*, to deter others by the example of his fate from the commission of similar offences. The punishment is inflicted for the malice in the heart of the offender, evidenced by the act he commits, and his disregard of the social obligations. The rights of an individual are often more seriously invaded by the act of some one wholly innocent of vicious design than by a less serious offence, maliciously done. Yet the law to the one grants