

The Press and General Review.

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THE PUNISHMENT OF DEATH FOR THE CRIME OF MURDER, RATIONAL, SCRIPTURAL, AND SALUTARY. BY WALLER SCOTT, PRESIDENT AND THEOLOGICAL TUTOR IN ABERDEALE COLLEGE, BRADFORD, YORKSHIRE.

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But leaving the Old Testament, we may observe, that however much of mercy there may be in the constitution of the gospel, we think there is nothing to warrant the abrogation of the law in relation to murder. The present dispensation is not a system of unmingled mercy, for the manifestation of mercy at the expense of justice. Its anathemas against all ungodliness and unrighteousness of men are as fearful as any that can be found in the writings of Moses. Entertaining the views already unfolded, and regarding capital punishment as the law which God established with Noah and his descendants, and the operation of which He deemed essential to the government of the world for so long a period prior to the Jewish dispensation, and then occupying a prominent place in the penal code of the Mosaic economy, it seems perfectly natural for us to expect, according to the view of opponents, that the gospel should possess special reasons for the repeal of this law, or a plain command to treat it now as null and void. We think that neither the one nor the other is to be found in the New Testament. Several passages are currently cited, and loosely applied, by the opposers of death-punishment. To these Mr. S. has referred, rescuing them from forced and unnatural interpretations, and giving to them a plain and intelligible exposition. "It is often urged that the capital punishment of the murderer is inconsistent with some parts of our Lord's Sermon on the Mount, and is, indirectly at least, prohibited by them. Nothing, however, can be more evident than that it was far from being the design of the Saviour to advance anything contrary to the moral spirit or precepts of the law of Moses, or to abrogate any of its enactments. Attend to his own solemn declarations: 'Think not that I am come to destroy the law or the prophets. I am not come to destroy, but to fulfil'—Is it possible, that after uttering such language he should immediately proceed to disannul one of the most important and explicit injunctions that God had ever given under either the patriarchal or Mosaic dispensations, and one relating to the punishment of the greatest crime that man can commit? On the contrary, he proceeds to vindicate the law from the false interpretations and glosses of the scribes and pharisees, and to point out its spiritual meaning. That this is his intention is plain from his own language: 'For I say unto you, that except your righteousness shall exceed the righteousness of the scribes and pharisees, you shall in no case enter into the kingdom of heaven.'—This may almost be called the text of his Sermon on the Mount. What preceded was the introduction; at the least, it is the proposition which he proceeds to illustrate in what immediately follows. And does he intimate that the Jewish doctors had interpreted the law too rigidly, and denounced unmerited punishment against those who violated its precepts? Quite the contrary. He asserts in the plainest terms its spirituality, and gives the most appalling views of the doom of those who fell under its malediction, intimating that they had cause to fear inflictions more terrible than the scribes and pharisees had threatened. And his explanation of the command which relates to murder deserves particular attention, (verse 21.) 'Ye have heard that it was said by them of old time, Thou shalt not kill, and whosoever shall kill shall be in danger of the judgment; that is, of being brought before the Jewish court, by which he would be condemned to suffer death. verse 22 'But I say to you'—what?—that this punishment is too severe? it should be mitigated? it is barbarous, and should be abolished? Far indeed is he who had God's law in his heart, and who came to labor and die in order to vindicate its honor, from giving any such intimation. The substance of his answer is, that even causeless anger and reviling words, which indicate and foster the spirit of the murderer, expose to a punishment more severe than that which was denounced on him by the Mosaic law—'But I say unto you, that whosoever is angry with his brother, without a cause, shall be in danger of the judgment. But whosoever shall say, Thou fool, shall be in danger of hell fire.'—Most assuredly there is nothing here which looks like the disapproval of the infliction of capital punishment on him who should wickedly and wantonly take away the life of a fellow-creature." The general view Mr. S. has given of the Saviour's Sermon on the Mount is the correct one, as will appear from an examination of the different passages in the Sermon to which the anti-capitalists ever and anon make their appeal.

"Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth; but I say unto you, that ye resist not evil." Here we have the doctrine of equivalents, which these words were intended not to invalidate but to confirm. The whole drift of the discourse on the Mount was not an exposition of the letter of the law merely, but a faithful inculcation of its

spirit, thus assigning to it a spirituality and extent far beyond the notions of the scribes and pharisees. When stress is laid upon not resisting evil, the argument proves too much, and therefore proves not ing, because, according to this mode of interpretation, resistance in any shape would be contrary to the spirit of the passage. The law, in the hands of the magistrates, was equitable and adapted to general good, nor was it our Lord's design to undermine its authority. But by the glosses of the Jews, it had been perverted in favor of private retaliation and revenge. Against this principle the Saviour inveighs. "Ye have heard that it hath been said, Thou shalt love thy neighbor, and hate thy enemy, but I say unto you," &c., &c. In these words we have a perversion of the Rabbin's, for in no part of the Old Testament are we commanded to hate our enemies, and good will to them is inculcated as strongly in the Old, though not as frequently as in the New Testament. The law approves of love to our enemies as truly as the gospel does, and in this respect there is no variance between the one and the other. Christian writers have sometimes conceded that the Jewish gloss was founded on the spirit of the Mosaic dispensation, and have made incautious comparisons between the many maledictions of the Psalms of David and the many merciful admonitions of our Lord, and have represented the doctrine of love to enemies as the peculiar doctrine of the gospel economy. To affirm that the law of capital punishment should be abolished because the gospel is a system of love, is to mistake the nature both of the law and the gospel. The sum of the second table of the law given on Mount Sinai was, "Thou shalt love thy neighbor as thyself," and yet the Jews were expressly commanded to take away, by the sword of the civil magistrate, the life of the wilful murderer. Did God then give a command which was directly opposed to the whole spirit and sum of the law, which he gave them in the most solemn and public manner, so that they could not obey the former without violating the latter? Yet the design of the whole discourse on the Mount was to guard us against the loose and relaxing interpretations of the law by the Jewish Rabbins, and also from the wilful perversions of the law, in using it for the purpose of private revenge, as the magistrate used it for the public security of the commonwealth of Israel.

"Vengeance is mine; I will repay, saith the Lord," is a passage frequently cited in the controversy, but very vaguely understood. It is a quotation from Deuteronomy xxxii 35, and was primarily addressed to the Jews, when they were required by God to take away the life of the murderer. If its spirit is at variance with capital punishment now, it must have been so formerly. The passage, as appears from the whole context, is a prohibition of the practice of private revenge—a recommendation to overcome an enemy by acts of the purest charity—opposing deeds of the greatest good to deeds of the greatest evil. If we have enemies, we are not always to seek redress by demanding righteous retribution, but to leave them in the hands of God, that he may both be judge and executioner. All this does not apply to the conduct of the magistrate in the punishment of daring offenders; the Jewish law required the life of the murderer, though the Jewish people knew that God had said, "To me belongeth vengeance and recompense."

So far in our examination of the New Testament we see nothing in the shape of a repeal of a law which had existed so long, and which was so well known among the Jews; but as we advance, we meet with several passages in which we have distinct implication of the propriety and justice of capital punishment. "But if thou do that which is evil, be afraid; for he beareth not the sword in vain; for he is a minister of God, a revenger to execute wrath upon him that doeth evil." "The sword, as borne by the legitimate authority, like the axe which was carried before the chief magistrate of the Romans, was the instrument and emblem of capital punishment, and was used to deprive of life. Will our opponents inform us when and where, in any age or nation, or by any writer, the sword was employed as the instrument or emblem of chastisement, or of minor punishment? And that this was far from being the idea of the apostle, is evident from the other terms which he uses. The power that bears the sword is represented as the 'minister of God, an avenger to execute wrath.'" We deem Mr. S.'s reasoning on this passage sound and conclusive. He has made no reference to the apostle's defence of himself, which, by implication, has an important bearing upon the question: "For if I be an offender, or have committed anything worthy of death, I refuse not to die; but if there be none of these things whereof these accuse me, no man may deliver me unto them. I appeal unto Caesar." The apostle heartily accords to the commission of crime the punishment of death, and declares, before Festus, his willingness to surrender his life into the hands of the executioner, on the conviction of his guilt. If capital punishment is unjust, or contrary to the genius of the gospel, or a barbarous and degrading public act, which it is represented to be, how can we reconcile this with the fact that the apostle lent the weight of his influence to the propriety and perpetuity of the penalty, by a cordial consent to endure its infliction in his own

person, when his criminality should be established?

Another general thought which Mr. S. embodies in his pamphlet is, that the punishment of death for the crime of murder "is calculated to exert a salutary influence on the public mind and character, instead of brutalizing and degrading them." The full force of the reasoning is felt here, by the author's appeal to the doctrine of rewards and punishment. This principle of the divine government has been adopted in all ages, and in all nations. It is no less a dictate of reason than revelation. It necessarily enters into all our conceptions of moral government. Could a family, or a society, or a king, be governed without it? Ought we to impugn God's legislative wisdom by the adoption of a principle which he has not adopted, or by relaxing a principle which is so prominent a part of his own government, without a sanction from himself? Great blessings were abused by the Israelites. "Jeshurun waxed fat and kicked." "When I fed them to the full, then they rebelled against me, and assembled by troops in the harlots' houses." Great punishment corrected their wickedness, and cured their evil propensities. "When he slew them, they sought him; and they returned, and inquired early after God." The punishment of death had a salutary effect with a people in a comparatively ignorant and infantine condition; and why, we ask, should the same punishment have a precisely contrary tendency with a people more advanced in civilization, and better acquainted with Christian principles? The difficulty is not met by instituting a comparison between a human and a divine government, for in both cases men are treated as rational and intelligent creatures, capable of being influenced by motives—by rewards and punishments. If it is just to proportion the degree of punishment according to the degree of crime, why should the greatest punishment be remitted for the greatest crime, without some reason from revelation? And if government appeals to motives on that ground, shall we cease to appeal to the strongest motives—the fear of death, in the case of murder? The mitigation of punishment for the crime of murder, so far from reducing the frequency of the crime, would, in our opinion, tend to augment it; and would throw down a bulwark of public safety. A contrary opinion is unsupported by the adduction of any facts with which we are conversant.

TO BE CONTINUED.

THE ENDOWMENT QUESTION.

(From the Montreal Gazette.)

We observe with some interest that several of the Upper Canada Journals have recommended an agitation on the Clergy Reserve question, and that in several localities meetings have been held on the subject. Mr. Hume's also at the Woodstock dinner thought it incumbent on him, in deference to the pressure from without, to allude to it. He, however, while declaring that the administration had done nothing in the matter, gave his audience clearly to understand, that it was a subject of which the whole knowledge was confined to the Cabinet, and that the people knew nothing about it.

The Clergy Reserve question has been settled by the Imperial Act of 1840, and without the consent of the Imperial authorities, no change in the destination of those lands can be made.

It is frequently asserted that the application of the proceeds of the Reserves, creates actually the dominance of a sect in the Province, and the weight of denunciation generally.—we had almost said exclusively,—falls upon the Church of England. If this dominance be made, it can only be by inference—no more—since no ecclesiastical corporation is created and absolutely endowed, and the dominance must be that of each Church participating in the fund. The Church of England, therefore it appears to us, is no more worthy the honor of these fierce denunciations than the Church of Scotland, the Wesleyan Church, the Roman Catholic Church and others equally guilty of taking a share of the "spoils."

But if the Upper Canada people wish to get rid of all ecclesiastical endowments or appropriations, to resume all ecclesiastical gifts from the State, and to bestow the proceeds for the benefit of education,—things which we readily admit the people have full power to do, provided the interests of present incumbents are duly preserved,—we can furnish them with an object of attack worthy of their prowess, and deserving of reduction. We mean the Roman Catholic, Jesuit and non-Jesuit, establishments of Lower Canada.

These bodies exist by authority of enactments which are perfectly within Canadian control, some by virtue of Statutes passed by the Canadian Legislature. They constitute an established Church, in the most complete, most comprehensive, most tyrannical, and most offensive meaning of that expression.

They have been endowed with lands to an enormous amount, which they hold in absolute property without let or check as a corporation, they are by law entitled to collect tithes,—a power possessed by no other church in North America,—and they do collect them in every parish of Lower Canada from every person of their creed; and they share in addition in the proceeds of the Protestant Clergy Reserves of the Province.

The Seminary of St Sulpice alone is possessed of most extensive seigniories, and is now entitled to seven and two tenths per cent, on all real property in the city of Montreal, upon a commutation previous to 1854, and to eight and a half per cent, after that date.

We are well convinced that the people of Upper Canada are not aware of the sort like condition in which Lower Canada is plunged, and the miserable bondage which is more strongly becoming riveted upon its people by means of a priesthood who, either purposely have kept the people in almost brutal ignorance, or who have criminally neglected to give education, even of the rudest kind to their flocks. We are also well convinced, these matters, when they come to be known, will excite the liveliest interest in Upper Canada, particularly among those Reformers, whose principles lead them strongly to oppose all religious establishments, particularly as no ministry can plead, that the subject is not perfectly within their control.

In order, therefore, that the people of Upper Canada may carry knowledge with their zeal, we shall quote to them the Ordinance by which this hierarchy has been foisted on the Province, and will hereafter state some facts respecting their enormous revenues, which we doubt not will startle the minds of men who look upon the payments from the Clergy Reserves as unjustifiable in principle, and extravagant in amount.

[For the principal parts of the Seminary ordinance 3rd and 4th Victoria, c 30 as condensed by the Gazette, we direct our readers to the fifth page of this day's Watchman.—Ed.]

The following observations from the Patriot of the 2nd inst., relative to the above article from the Gazette, deserve attention. "The Roman Catholic endowments are open to legislative enactments," and we doubt not, upon the action of our Legislature relative to the Clergy Reserve Question, depends the extension indefinitely, or the entire abolition of the endowment system in Canada. The Patriot observes—

"We copy from the Montreal Gazette an article relative to the Clergy Reserves and Roman Catholic Ecclesiastical establishments, which we commend to the notice of our readers. It is to be hoped that the French adherents of the Liberal ministry will see that the Roman Catholic endowments are fully open to legislative enactments; and that they are opening the door to unlimited spoliation, if they consent to any proceedings which may interfere further with the Clergy Reserves, already too daringly plundered and diverted from their original purpose.—Patriot.

NAPLES.

"The Minister of Public Instruction in Naples has issued a decree, for the purpose of securing a closer surveillance of the students by the Popish priests, a measure evidently dictated by the spread of liberal opinions amongst the young Neapolitans. The entire students are to be placed under the superintendence of a commission of ecclesiastics, to be instituted for that purpose; every student is to be enrolled in some religious congregation or society; no student is to be allowed a permission of residence unless he produces a certificate of his belonging to such a body, which certificate is to be renewed monthly. The student is also bound to present to the congregation, once a month, a certificate that he has attended the lessons of a master approved by the Minister of Public Instruction. The conferring of academic degrees is to be regulated by the attendance of the students of the congregations. Schoolmasters are bound by the same decree to take their pupils above ten years of age to one of the congregations, and to certify their attendance once a month. All schools, public and private, are placed under the operation of this arbitrary law.—Scottish Guardian.

LAW REFORM IN THE STATE OF NEW YORK.

We publish to-day the report of the Commissioners of practice and Pleadings, introductory to the Civil Code of Procedure, to the Legislature of the State of New York. In our next we shall present the report on the Code of Criminal Procedure. The herculean labors of the Commissioners may be judged from the fact that "the two Codes of Procedure, Civil and Criminal, cover the whole ground of remedial law, and are intended to dispense with all previous Statute and Common Law in that department, and that together they constitute an entire Code of remedies." The labor may not indeed have been equal to that undertaken by Justiciars in the reform of Roman jurisprudence, when the accumulated laws and legal opinions of ten centuries had to be digested, and which were comprised in "many thousand volumes, which no fortune could purchase, and no capacity could digest;" and from which the Code, the Pandects, and the Institutes were framed. The famous Code of Napoleon, in modern times, is a vast monument of human industry and genius. Succeeding ages may class with these gigantic reforms of jurisprudence of Rome and of France, the labors of the Commissioners by whom this great work has been executed, in the State of New York.