

the same wise theory which vests the State with the right to punish at all, i.e., self-preservation. Systems too harsh are equally detrimental to public safety with those which are too lax. Tyranny begets resentment and resentment breeds crime. The prohibition against the infliction of cruelty and torture in punishments is founded upon expediency alone; upon the duty of the State to the large body of its innocent members, for in their infliction the very end sought would be defeated by the demoralizing effect upon the senses of the people.

It cannot be said that the infliction of the death penalty comes within this exception. It is the natural end of man, upon which he comes to look with composure, even while he hopes for its long deferment. Moreover, it is the natural penalty to which the mind of man turns when considering the character of punishment to be inflicted for the class of crimes to which it is usually incident. It is but natural in men's eyes, in consideration of abstract human justice, that a life should answer for a life unlawfully taken. It is not repulsive to the ordinary mind. How, then, in consideration of these things, can the *right* to punish with death be consistently questioned?

That it has occasionally been questioned upon this ground is no answer. Some learned men have denied the right in the State to commit its citizens to death. Of these the most prominent perhaps is the Marquis Beccaria (*Essays on Crime and Punishment*, 1775. English Translation by Farrer, 1880). He contends that no earthly power has the moral right to inflict so severe a penalty as death upon man; in which he has been found by others illogical, for, in discussing the efficacy of the punishment to deter crime, he confesses that other punishments, such as labour in slavery for life, are severer, and yet seemingly admits the right in the civil authority to assess these latter penalties, even though severer. Some few others have sustained Beccaria in this view, but the great weight of authority, and the practice of civilized powers from the remotest times, have adhered to the contrary opinion. The reasoning of Rousseau upon the point seems unanswerable. If the right in society to preserve itself is