

THE PEARL.

HALIFAX, FRIDAY EVENING, MARCH 1, 1839.

FIFTEEN REASONS AGAINST DEATH PUNISHMENTS.—

We are indebted to the kindness of a friend for the perusal of an admirable work "On the Punishment of Death, by Thomas Wrightson." The first portion of the work is occupied with Tables, showing the tendency of the punishment of death to produce impunity, from the reluctance of petty juries to find guilty. One proof of this tendency we will give in the words of the author—"Executions for murder, arson, and rape, are much more frequent than for robbery, burglary, or house-breaking; and the number of acquittals is also very considerably larger. Of these, murder is that for which there are most executions, and most acquittals—and this, notwithstanding the indisputable fact, that it is a crime less difficult of proof, than arson or rape.

"Charges of murder, arson, and rape, are generally supported by indirect, or, as it is commonly called, circumstantial evidence. Now circumstantial evidence affords a great opening for difference of opinion, and doubts; and these doubts are generally exaggerated according to the constitution of the minds to which they present themselves. It would be absurd to suppose that juries perjure themselves wilfully in these cases, in order to screen the guilty; but the way in which capital punishment leads to impunity is this. Circumstantial evidence, however strong, is only circumstantial; it leaves an opening for doubt: the terrible nature of the punishment induces juries to overrate the possibility of the prisoner's innocence; and from a dread of finding a wrong and irremediable verdict against the innocent they acquit the guilty. In England and Wales, in the seven years ending 1831, 73 out of every 100 tried for murder were acquitted. Does any man suppose that more than a very small part of this number were innocent? The magistrates who committed them, thought them guilty; the grand jury who found a true bill against them, thought them guilty; but the petty jury acquitted them. And why? *Because, through disinclination to take away life, which is the immediate gift of God to man, they were not satisfied with satisfactory evidence.*" In this manner, Mr. Wrightson demonstrates from official tables, that the barbarous punishment of death leads to the exculpation of the guilty. The second portion of the essay contains a comparative view of capital punishment and penitentiary imprisonment, and the advantages of the latter enlightened system are strongly contrasted with the disadvantages of the former savage plan. It is from this "comparative view," that we extract the following reasons against judicial bloodshed.

1. It is dangerous to liberty, inasmuch as it puts a weapon into the hands of tyrants, of which they have never failed to make abundant use in the oppression of their people. By the abolition of it, despots would be deprived of the means of ridding themselves of such subjects as were obnoxious to them; and thus another bulwark would be added to the defences of constitutional freedom.

Note.—It was proposed in the French Constituent Assembly, in May, 1791, to abolish the punishment of death. The motion was rejected, and the greater part of those who voted against it, themselves perished on the scaffold. Had the Constituent Assembly decided otherwise, it is very probable, that the judicial murders, which disgraced the French revolution, would never have been committed. Turning to our own country, let us ask: would the innocent Anne Boleyn, the amiable Sir Thomas More, or the learned and enterprising Raleigh have been delivered over to the executioner, if the capital punishment of felons had not familiarized the minds of men to acts of judicial homicide? If the punishment of death had been previously banished from our laws, would it have been restored that the sacrifice of the unfortunate Mary Queen of Scots might appease the jealous spirit of her rival? Can any one suppose that Lord Stafford would have been executed for constructive treason, if treason itself had not been capitally punishable, in the reign of Charles I.; or that a lawful monarch would have been condemned to death by his own subjects, had the laws pronounced the life of the meanest criminal too sacred to be touched? It is not, I think, too much to assert, that if the scaffold had been previously abolished, it would not have been re-erected for Stafford or for Charles. The history of every age and country furnishes examples of the dreadful extent to which the abuse of this punishment has been carried under the name of justice. In times of tyranny or civil discord, a punishment which is in use may be resorted to, for political purposes, or for the gratification of party malice. But to revive an old punishment which had once been formerly repealed, with which the people had ceased to be familiar, would be a matter of much greater difficulty: it would excite too much observation; it would awaken too much suspicion; it would bear the stamp of despotism too plainly upon the face of it. If we look to history, we shall find, that even the most cruel tyrants are forced to respect the deep-rooted habits and prepossessions which prevail among the mass of their subjects. On the inexpediency of the punishment of death for treason; see Guizot de la peine de mort en matiere politique. Paris 1827.

2. Capital punishment is incompatible with the attainment of one great end of punishment, the reformation of the offender.

3. As regards another great end of penal law—example, it does not possess the quality of inspiring terror to all. This may be inferred, from the large number of suicides—from the facility with which large armies are raised—from the ease with which workmen are procured in dangerous or unhealthy occupations, and from the reckless love of mortal danger so often to be observed, when no possible advantage can be derived from it. Surely we ought at least to hesitate, before we give the praise of superior efficacy to the punishment of death, in a country where the suicides exceed the executions, where the number of persons who voluntarily court death far surpasses that of those on whom it is inflicted by the law.

Note.—The higher classes in this country (to which members of Parliament belong) are led by the circumstances of their position in society to overrate the efficacy of the punishment of death. Among them an ignominious death is regarded as the worst of ills; and they commit the common error of judging of the feelings of others by their own. But they ought to reflect, that death is less terrible to those whose poverty debars them from so many enjoyments of life, and that the dread of ignominy has little power after a long course of crime has blunted, if not extinguished the sense of shame. This may account for the extraordinary tenacity with which the legislature have clung to sanguinary penalties.

4. It is prejudicial to the ends of justice by removing a source of evidence. The testimony of a man who has been executed might have been valuable for the conviction of the guilty, or what is infinitely more important, for the exculpation and acquittal of the innocent.

5. It encourages crime in the companions of the criminal executed, by the fact that a dead man can make no disclosure to their prejudice.

6. It encourages one of the worst of all crimes—that perjury which, by judicial process, robs a man of life. The punishment of death increases, to a frightful extent, the security with which this crime may be committed; for when the breath is out of the body of his victim the perjurer has little left to fear.

7. The spectacle it affords, hardens and brutalizes the bad, while it offends and disgusts the good. Whatever be the demeanour with which the criminal meets his end, the effect must be injurious. If he display a Christian penitence, the pity of the spectator is roused, and pity for the criminal is akin to hatred of the laws. If he show insensibility, it removes instead of exciting terror. If he conduct himself with fortitude, the man who, but a few moments before, was detested for his crimes, is now admired and extolled for his heroism.

Note.—The evils of public executions are acknowledged by some of the advocates of the punishment of death. The Archbishop of Dublin (Dr. Whateley), and Dr. Mandeville, a celebrated writer of the last century, suggest that in order to obviate them, executions should take place privately. The remedy, it must be confessed, would be attended with danger, and among a people so jealous of liberty as the English, is not likely to be resorted to. The only practicable way in which these evils can be met, is by the abolition of the punishment of death.

8. It creates an infamous office—that of the hangman.

Note.—Politically speaking, is it good to accustom the people to the spectacle of blood; and to have a hundred executioners whose regular trade is to kill men?—Dupin, *Legislation Criminelle*, 228. [Professor Upham speaks to the same purpose—"Even the executioner, who sheds blood in compliance with the law, is looked upon with abhorrence. His office is a hateful one, as it always has been, 'detestable carnificis ministerium;' men scorn to give him the right hand of fellowship; they flee from him as they would from a pestilence." So Mr. George Combe—"The office of public executioner is odious, execrable, and universally contemned. If it were necessary by the Creator's institutions, it would present the extraordinary anomaly of a necessary duty being executed by the moral sentiments. This would be a direct inconsistency between the dictates of the superior faculties and the arrangement of the external world. But the animal executioner is not acknowledged as necessary by the human faculties."]

9. It alienates the best feelings of human nature.

10. It forms a standard of severity, which generates national cruelty and vindictiveness; for a people derive their character in no small degree from the laws under which they live. Gentle laws produce gentle manners, and vindictive laws make vindictive subjects. If then mildness be desirable in the character of a people, it should be the aim of legislators to impress upon them such a disposition through the medium of their laws. But it is more especially in offenders themselves that the punishment of death produces a savage barbarity of disposition. It arises from this cause—the dreadful fate with which they are threatened, hardens them to the sufferings of others. When it is considered that society becomes the victim of the inhumanity of criminals, this must be acknowledged to form a strong reason in favour of the mitigation of the law.

11. Vanity or fanaticism easily enable men to meet it with intrepidity and firmness. Strong minds triumph over it.

12. It makes neither restitution nor satisfaction to the party injured.

13. It encourages murder; since every thing which lowers the value of human life in the eyes of a people must have that effect; and to take away life, whether by law, or against law, has a direct tendency to make life less sacred. "Is it not absurd," asks Beccaria, "that the laws, which detest and punish homicide, should, in order to prevent murder, publicly commit murder themselves?"

14. The example is momentary, and every repetition of it supposes a fresh crime committed.

15. It is irremissible; so that where an innocent man has suffered it, the error is altogether irreparable. Innocent men have fallen the victims of the executioner in four different ways. Some have been convicted on weak circumstantial evidence; some from a mistake on the part of witnesses, with regard to their identity; some on the false testimony of those who really committed the crime; others, again, on perjured evidence, for the sake of what is commonly called blood-money, the rewards offered on conviction. "When the innocent become the victims of the law," says Sir Samuel Romilly, "the law is not merely inefficient; it not merely fails of accomplishing its intended object; it injures the very persons it was meant to protect, it creates the very evil it was to cure, and destroys the security it was made to preserve."

WAR THREATENED.—The transactions of the past fourteen days in reference to Maine, New Brunswick, and Nova Scotia, have excited within us emotions of the most painful character. It is well known that we are not of the number of christians who believe that in certain cases it is right to hate your enemy, to resist (by physical force and murderous weapons) your enemy, and to kill your enemy. We utterly repudiate the idea that the gospel sanctions a shred of the war-system. They are antagonist principles. War is the very antipodes of christianity; and you can unite them no better than you could mix oil with water, blend light with darkness, or commingle heaven itself with hell. War, we consider, is a cluster of sins. It repels or violates the very first principles of morality and religion. Scrutinize every one of its moral elements; scan its aims, its motives, and its means; see what guilty passions it every where kindles into a flame, what deeds of horror it perpetrates as necessary for the accomplishment of its purposes; trace its origin, its progress, the whole of its legitimate, inevitable consequences both for time and for eternity; and can any of the advocates of war point us to a single aspect of this custom that is congenial with a religion of perfect purity, peace, and love? In the language of the late venerable missionary, Ward, we are bold to say "Either our religion is a fable, or if it be true, there are unanswerable arguments against war, and the profession of arms. Christianity says, Love your enemies,—the maxims of war are, Kill them off. Christ says, Resist not evil, the statesman says, Fight and leave the reasons to me; or he endeavours to justify war by saying, 'It is to revenge an insult—to obtain so many acres of dirt—to fulfil our engagements to an ally—to prevent the secret designs of our enemy';—or any thing else that comes into the head of a statesman, who, perhaps, laughs at the precepts of Christianity." We know that in adopting these views we attack the practical sentiment of all Christendom; we feel the apparent temerity of our position, but shall we bend the word of God to make it accord with the practices of erring mortals?

And here may we be allowed to recall a few passages of the New Testament. *Thou shalt love thy neighbour as thyself. Never do evil that good may come. Avenge not yourselves. Love your enemies, bless them that curse you, and do good to them that hate you. Lay aside all malice. See that none render evil for evil. Resist not evil; but overcome evil with good.*—We have no space for a critical examination of these passages; but is it possible for any degree of exegetical ingenuity or perverseness to torture them into the least approval of war? We ask our fellow christians who believe that war under the gospel is sometimes right, whether it does not contravene every one of these precepts? Does not war proceed on the very principle of hating our enemies, of taking vengeance into our own hands, of overcoming evil with evil, and of cherishing, instead of laying aside anger, and wrath, and malice, and the whole circle of malignant passions? And, notwithstanding Christ never lifted a finger of violence to preserve even his own invaluable life—notwithstanding he frowned upon the disciples for proposing to call fire from heaven and destroy his enemies, rebuked the generous ardour of Peter in drawing the sword in his own defence,—and forewarned the world, that all those who "take the sword, shall perish by the sword,"—and notwithstanding we hear of no Christian killing his enemies under any pretext, till near that fatal era when the church became paganized early in the fourth century! Despite of all this, will a lover of the meekness and gentleness of Christ, tell us that war is right! What! war right, and the above precepts right! Yes, will be the response from many a bosom to our inquiry, for the above precepts it will be said are intended to regulate the conduct of private persons, and do not apply to the official duties of rulers! We hope we shall not give offence, when we ask such respondents, Who told them this? Dr. Paley, or Jesus Christ—man, or God? Yes, who informed them that kings and statesmen are double men—possess two sets of rules—are under two classes of obligations;—bound by the laws of God in the limited concern,