

mate accuracy upon these points. But is Mr. Justice Fry's rule more simple? Adjust suffering to the enormity of the sin! Let somebody catalogue the sins in order of their enormity, and let us behold it. Will blasphemy or murder head the list? Will a son's petulant answer to his father, or treason to a tyrant take precedence? And when this is settled and society's protection requires a heavier punishment than the schedule exhibits, a heavier may, it is said, be properly inflicted, for the highly satisfactory and scientific reason, that "*the culprit has no merits which he can oppose to his thus being made useful for the good of society.*" In this scheme therefore, the possibility of fixing punishment by reference to the wrong to society is admitted, and the only question left therefore, is whether in case the sin-schedule should show heavier punishment, it should be inflicted.

3. "On the theory I present, the evil consequences of an act are important so far, and so far only, as they were known, or ought to have been known, to the actor, and so ought to have acted on his conscience, and are an element in the magnitude of his sins." Among the heads of enquiry into this matter is:—"The moral responsibility of the actor; by which I mean not merely the question whether he be sane or insane, but what is the nature of his moral training, his ethical environment, his knowledge of right and wrong; what is the light against which he is sinning—for surely it is true now as of old, that "He that knoweth his master's will, and doeth it not, shall be beaten with many stripes, but he that knoweth it not, with few." All this is very well in theory, but in practice it would acquit the thugs, or at all events, reduce their hanging to a few stripes. "If his conscience" is not up to the "*human conscience,*" then he must submit to the consequences and become an example for the humanizing of other consciences, and we should think that he had very few "merits which he could oppose to his thus being made useful for the good of society."

"If the utility of the punishment is the only object, the punishment of an innocent victim is as satisfactory, if the