

to be a punishment and nothing else. When a man is about to be hanged, it is little consolation to him to be told that hanging is not a punishment but a purification. But the one conception slides easily and almost imperceptibly into the other ; so that what was at first a religious rite, a solemn consecration or sacrifice, comes in course of time to be a purely civil function, the penalty which society exacts from those who have injured it : the sacrifice becomes an execution, the priest steps back and the hangman comes forward. Thus criminal justice was probably based in large measure on a crude form of superstition long before the subtle brains of jurists and philosophers deduced it logically, according to their various predilections, from a rigid theory of righteous retribution, a far-sighted policy of making the law a terror to evil-doers, or a benevolent desire to reform the criminal's character and save his soul in another world by hanging or burning his body in this one. If these deductions only profess to justify theoretically the practice of punishment, they may be well or ill founded ; but if they claim to explain it historically, they are certainly false. You cannot thus reconstruct the past by importing into one age the ideas of another, by interpreting the earliest in terms of the latest products of mental evolution. You may make revolutions in that way, but you cannot write history.

If these views are correct, the dread of the ghost has operated in a twofold way to protect human life. On the one hand it has made every individual for his own sake more reluctant to slay his fellow, and on the other hand it has roused the whole community to punish the slayer. It has placed every man's life within a double ring-fence of morality and law. The hot-headed and the cold-hearted have been furnished with a double motive for abstaining from the last fatal step : they have had to fear the spirit of their victim on the one side and the lash of the law on the other : they are in a strait between the devil and the deep sea, between the ghost and the gallows. And when with the progress of thought the shadow of the ghost passes away, the grim shadow of the gallows remains to protect society without the aid of superstitious terrors. It is thus that custom often outlives the motive which originated it. If only an institu-