SUPER ROYAL BANNER.

GETTYSBURG, FEBRUARY 22, 1842.

CAPITAL PUNISHMENT.

The Various Petitions praying to Abolish Capital Punishment, which were presented to the House, were referred to the Judiciary Committee. Its Chairman, Mr. Lewis, reported adverse to its abolition, on behalf of the majority of the Committee, while those who dissented from them offered the following:

MINORITY REPORT.

The bill before the House proposes to abolish, in all cases now punishable with death, imprisonment for life in solitude and at labor; superadding to this the destruction of all civil rights and relations of the convict, as in case of his natural death. The feature of solitude is objectionable, but it is not deemed necessary at present to advert to it.

There are two questions which meet us at the threshold of this inquiry, but which we do not intend to discuss. The first is, whether society possesses in any case the right to take that life which it has not given and cannot restore! We concede for the purpose of the argument, that it has; provided it be shown that the exercise of it is necessary to the existence of society, or greatly calculated to promote in a degree its security and happiness. The second question is, whether it is imperative upon society, under the sanction of the Divine Law, to inflict capital punishment in every case of wilful murder! It would be out of place to enter upon such an inquiry here; and the undersigned are incompetent to the task of settling the meaning of texts of scripture, and to proper interpretation of which great theologians have deferred.— Upon this point therefore every member must be left to make his own examination, and be guided in his conclusions by the enlightened dictates of the monitor within his own breast.

The object of all punishment is the prevention of crime. Society knows or ought to know nothing of vengeance. Retributive justice is for that being alone, who can fathom the heart and measure the guilt of an action. It is to this erroneous idea of the object of punishment, that the infliction of death by the sentence of human tribunals, finds its most ordinary support.

An ancient law-giver is said to have answered to one who complained of his laws, "that the least offence seemed to deserve death, and that he knew of no greater penalty".

It seems however to be now so well settled that the prevention of crime is the only legitimate object of human punishment, that we consider it enough to consider the practical operation of capital punishment in reference to this paramount end.

The prevention of crime may be effected in three ways: By disabling the offender from repeating the offence; by his reformation; and, by the terrific example of his punishment.

It is admitted that the first is most effectually accomplished by the extirpation of the offender. But surely it will not now be urged that this can be the only mode of arriving at this result. The penitentiaries which have been erected within our borders for the reception of criminals of the highest grade, are completely debar the convict from a repetition of the crime, as a deprivation of his life. Prison breach, under our system, is of so rare occurrence that its consideration as an element in the case may be laid aside with entire safety.

The reformation of the offender, in other cases, particularly held forth, by that which has been denominated the Pennsylvania system, as the most important end of punishment, is not all contemplated in the infliction of death. Yet, if a long course of solitary confinement at labor has the beneficent effect to extinguish criminal desires, induce habits of propriety and industry—to turn the mind inward on itself—to awaken the strings of a seared or sleeping conscience—and to open the heart to moral and religious influences—why should those who have the guilt of a fellow's blood upon them, be debarred from the opportunity of repentance and reconciliation with heaven! Excluded from all association—attended constantly by one, able and anxious to impart religious instruction and effectionate counsel—may it not be hoped that even in their case, before that God who gave them life, shall of himself resume the gift, in the solitude of their lonely cells, he will have prepared them for the summons to the final judgment?

We come then to the consideration of the efficacy of the penalty of death as an example. The argument in its favor, derived from this source, it must be admitted, has lost much of its force since executions have ceased to be public. With the great mass of the people, and especially of that class amongst whom crimes most commonly occur, who cannot or do not read the newspapers, executions are not known or not thought of. Indeed, there is reason to fear that in many cases they are not believed to have taken place—and entire impunity is inferred to follow capital crimes. The impressions on the public mind, from a short paragraph in the Gazette, is of a very light and fleeting nature. It weighs very little in diminishing the influence of public executions, that the Legislature took the important step of dispensing with them. Experience demonstrated that efficacy of the most serious character were thus committed under the very feet of the gallows, and that an execution in a county was almost sure to be immediately followed by a fresh addition to the number of the inmates of the prison. But certainly a private execution in a jail yard, in the presence of a few privileged persons, unaccompanied with that open ignominy and disgrace, the very anticipation of which is so harrowing to all that is left of innocenty and shame in the breast, is not to be compared in the effect of its example to those public ones which have given place to it.

It ought not to be denied that death is a punishment of unspeakable terror. Yet there are few violent passions, which, in the language of Lord Bacon, *do not make and make light of*. While this penalty was unsparingly denounced upon mere crimes against property, *springing* from the more ignoble and sordid propensities of our depraved nature, all experience proved it unsuccessful in deterring men from the commission of such acts, and led to its abolition—still less powerfully may it be expected to operate in the case of a crime which takes its higher aim at human life, and springs commonly from the most ungovernable passions, or the most deep rooted malignity. Indeed it is observable, that in all countries, with the general mitigation of the penal code crimes have decreased. It may easily be accounted for. Punishments, which are revolting to the feelings of humanity, as society advances, beget comparative impunity. That confidence in his own superior good fortune, which seems naturally implanted, and in general for wise purposes, in every man, conquers the fear of meeting the fate which the law has decreed. It operates strongly, even in the case of the condemned criminal—and the single and slender chance of execution mercy will often buoy him up to the very last. An instance of this is related by Mr. Bradford, in his valuable work upon this subject, published in 1793. "Soon after the law was passed, two persons were convicted, one of robbery, the other of burglary, committed previous to it—they had the privilege of accepting the new punishment, instead of the old, but they obstinately refused to pay the benefit of the act, and submitted to the sentence of death, in expectation of a pardon—The hopes of one were realized, but the other was miserably disappointed. His unavailing regret he expressed when his death warrant was announced, and the horrent which seized him when he was led to the execution, proved at once how terrible is the punishment of death, and how strong are the hopes of pardon." *Those is found to operate thus powerfully, under such circumstances, how much stronger is its influence at the period of the commission of the offence, when, if the subject be weighed at all, amidst the workings of passion or malignity, a thousand other chances of escape present themselves.*

The profound observation of Montesquieu cannot be too much pondered in reference to this question. "If we inquire" says he, "into the cause of all human corruptions, we shall find that they proceed from the impunity of criminals, and not from the moderation of punishments. It is certainly not the severity of the penalty, that most effectually deters men from the commission of crime. It is the nature of the crime, the evil of the magnitude, which is certain and near at hand, more than one of a more serious nature, remote and uncertain. It is not too much to affirm that the fear of a capital punishment is not the principal deterrent from crime. They hope that the first is most effectually accomplished by the extirpation of the offender. But surely it will not now be urged that this can be the only mode of arriving at this result. The penitentiaries which have been erected within our borders for the reception of criminals of the highest grade, are completely debar the convict from a repetition of the crime, as a deprivation of his life. Prison breach, under our system, is of so rare occurrence that its consideration as an element in the case may be laid aside with entire safety.

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