

THE RIGHT TO PUNISH.

There appeared in the newspapers a short time ago an item to the effect that in Rhode Island a former convict has brought suit for the recovery of wages which he says are due him for labor performed by him while a prisoner under the convict-contract system. The suit is based on the fact that the Constitution of Rhode Island, which contains a prohibition of slavery, does not expressly declare that the prohibition is not to be understood as covering labor, or involuntary servitude, exacted as a punishment for crime. The language of the Thirteenth Amendment to the Constitution of the United States is: "Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." But we have no desire to enter into the judicial question brought up in the Rhode Island case as such.

What does interest us very much is the attitude that appears to be adopted towards the matter by certain advocates of prison reform. With the general aims of the constantly growing numbers of earnest workers in this field we are in hearty sympathy. There is a tremendous task before us in the direction of improved methods of treatment of criminals, not to speak of the extirpation of outrageous abuses and flagrant inefficiencies in the administration of existing methods. But along with a great deal of admirable endeavor, both in the way of constructive criticism and of intelligent experiment, there is rife nowadays a great deal of crude dogma and dangerous sentimentality. It is stated that this convict's suit is backed by persons interested in prison-labor reform. The case for his claim, as seen by them,—and apparently approved by the editor—is thus stated in an editorial in the *Chicago Record-Herald*:

The theory is that a convict should be paid decent wages, and that his family or other dependents should have the benefit of his toil. Of course, if the convict is a slave, he has no rights that anybody is bound to respect. If he is not a slave, the wages of his toil and conditions of his employment in or out of prison require proper regulation in the interest of justice. It is to be hoped that the Supreme Court of Rhode Island will not

seek or find some technical loophole through which to escape, but will tackle the issue in its vital bearings and rejoice in the opportunity to hand down a memorable opinion.

Undoubtedly, the question of a convict's wages and of the conditions of his employment is one that requires "proper regulation." It may be that to give him the full net proceeds of his labor would be a wise policy; it is almost certainly true that some approximation to such a course would be most beneficial to the community as well as to the convict. But to say that he has a right to such treatment simply because he is not a "slave," is to reduce to absurdity the whole idea of criminal justice. Where are you going to draw the line? If he possesses the ordinary rights of a free-man, he possesses the right to come and go, to enjoy the society of his wife and children, to work as much or as little as he pleases. Is he to be mocked with mere wages, to be enjoyed perhaps only after years of waiting, and in the meanwhile to pine away in loneliness and confinement? Is the withholding of wages the only deprivation which the slave endures? Is it the bitterest of the pains he is called upon to suffer? Is the loss of liberty nothing, so long as a daily dole of money is added to the daily dole of food?

We ask these questions not by way of legal argument on the Rhode Island case, but on account of their bearing on the whole subject of criminal law and criminal administration. Those who undertake to settle the fundamental issues of that subject by an appeal to the mere catchwords of an abstract dogma of human rights are only saved from sinking in a quagmire of impossibilities by failure to carry their dogmatizing and sentimentalizing to its legitimate conclusion. The abstract right of a man to the ordinary prerogatives of a free-man is either forfeitable by crime or it is not. If it is not forfeitable, we have no right to deprive any criminal of his liberty. If it is thus forfeitable, the nature and limits of the deprivations to which he may be subjected must be determined by considerations of public expediency, and not by the dicta of any abstract theory of human rights. Let unnecessary harshness be abolished, by all means; but let it be abolished because it is shown to be unnecessary or ineffective. Let encour-

agement to thrift be given the convict; but let it be given because there is sound reason to believe that it will promote his reformation, or succor his dependents, and will not injure the community.

We grope sadly, to be sure, in the treatment of these matters. We have given them scant attention; we have blundered in regard to them; we have suffered venality and incompetence to work untold evils in relation to them; we have even been shamefully niggardly in supplying the means for a proper administration of the system we have. To mend all this—slowly if we can do no better, rapidly if we can arouse the community to a sense of its full duty—is an urgent task. It is being carried on by men and women who devote their lives to this unattractive and often thankless work. But with all its faults and shortcomings the system of criminal justice has performed a function absolutely indispensable to the carrying on of civilized life. It has done its work wastefully, stupidly if you please; but it has done its work, and that work continues to be as essential as ever. In order to maintain it, it is necessary to hold, with clear conviction, without tremor or apology, that the right to punish rests on the solid foundation of the highest public expediency. Those who indulge in such talk as we have here been criticising can find no logical stopping-place short of a complete denial of that right as so founded. And that way madness lies.

THE LONELY HEIGHTS OF SCIENCE.

Looking under the name "Hill," in the *Encyclopædia Britannica*, we find "Hill, Ambrose Powell, American Confederate soldier," "Hill, Daniel Harvey, American Confederate soldier," "Hill, David Bennett, American politician," and other Hills, American and English, but not Hill, George William, American astronomer. Nor did the death of George William Hill, a few days ago, evoke from the American newspaper press anything more than perfunctory notice. Yet he was one of the extremely small group of men in this country whose scientific work was of the highest order. His researches in celestial mechanics will rank permanently among the memorable achievements of the human mind in a domain in which some

O 1234

of the greatest intellects of the race have exerted their utmost powers. One of the many notable testimonials to his rare eminence was the publication, several years ago, by the Carnegie Institution, of his "Collected Mathematical Works," with an introduction by Henri Poincaré, the most illustrious French mathematician of the last two generations. In this introduction, Poincaré gives an outline of Hill's researches, and discusses their relation to what had been done by his predecessors, and their bearing on the future development of celestial mechanics.

So remote are labors like these, not only from the ordinary interests of mankind, but from the possibility of even a dim apprehension of their nature on the part of any but mathematicians, that it is not surprising that the man whose life is given over to their pursuit gains none of the glittering rewards, such as they are, of popular notice. And in the particular case of George W. Hill, it would be peculiarly inept to treat the absence of such notice of him, alive or dead, as a personal grievance. For Hill was, by deliberate choice, a recluse, a solitary, even in relation to the small circle of the elect who were capable of fellowship with him in the special intellectual field to which he was so exclusively devoted. And yet one can but feel that, in one way or another, the consciousness of this kind of high endeavor and achievement might well be more widespread than it is; and that if it were, the result would be a reciprocal benefit—a benefit to the man of science and a benefit to society at large—of no small value. In the case of an almost freakish simplicity and self-withdrawal like that of Hill, it may be that nothing of the kind would be possible; but his case is highly exceptional. It is not many years since there died an American mathematical physicist of similar scientific eminence, a man whose work is acknowledged to be in the first rank, and who was during his entire career professor in one of our leading universities; but how many Americans knew the name of Willard Gibbs? How many persons in New Haven—how many Yale students even—were aware that this modest scholar was one of the world's leaders in a great field of scientific thought?

It is something of a coincidence that within the few days since the death of Dr. Hill, another American man of genius has been taken away who, different in almost every possible way from Hill, was like him in that his life had for many years been passed in extreme seclusion. A man at once of extraordinary acumen and originality, and of a phenomenal range of intellectual interests, there was in Charles S. Peirce a vein of the erratic, perhaps one may say the unstable, which seems to account for his achievements having fallen far short of what might have been expected of his unquestionably splendid powers. Even as it is, however, he left his mark on at least two branches of the intellectual activity of the age. In that modern development of the science of reasoning which is usually designated by the name of Symbolic Logic, his work well deserves to be called *bahnbrechend*; the leading German writer on the subject, Ernst Schroeder, makes it the foundation of his extensive treatise. And it is from Peirce that William James derived the name "Pragmatism," and the doctrine for which that name stands in James's work; though, in the interest of accuracy, it is necessary to add that Peirce repudiated James's development of his seminal idea. But the concrete fruits of Peirce's labors, many as are the fields in which he worked, are small in comparison with what those who came into contact with him could not but feel would have fallen into his hands if he had but possessed that something—constancy, balance, or whatever it may be—which nature seems to have denied him.

That there might be—that there has been in other times and other countries—an atmosphere more genial and friendly even for those whose labors carry them to those strange and lofty heights in which dwells the mathematician or the abstract philosopher, we have already intimated. But these almost self-condemned exiles from "the kindly race of men" are not the only scholars who suffer from an intellectual isolation that is deplorable, and to the nature and consequences of which we seldom or never give attention. That free-masonry of the intellect which has played an inestimable part in the higher culture of Europe is almost wholly absent, as yet, in our university circles.

Foreign Correspondence

THE BRITISH CIVIL SERVICE—RECOMMENDATIONS OF A ROYAL COMMISSION.

LONDON, April 11.

The British Civil Service has had a hard task to live down the reputation given it by Charles Lamb. His charming account of the problems that vexed him daily from ten to four, and his practice of making up for late arrival by going away early, have left a widespread impression that Whitehall is almost a synonym for Lotus Island. But Lamb retired from the East India Office in 1825, and nowadays the interiors of the large buildings that stretch from Trafalgar Square to the Houses of Parliament show little resemblance to a land where it is always afternoon. Indeed, the pressure upon the more responsible Civil servants when bills relating to their departments are passing through the House might be compared to that upon the station masters of the big railway terminals during the excursion season.

Not only is the daily round of the Government clerk far more strenuous than a hundred, or even fifty, years ago, but, at the same time, the gate into the service has been narrowed by the modern custom of filling so many of the appointments by open competition. In 1854 it was declared by the Commissioners chosen to report on the existing system of appointment by nomination that "admission into the Civil Service was greatly sought after, but it was for the incompetent and the indolent and incapable that it was chiefly desired." The Government departments then were regarded "as a means of securing a maintenance for young men who have no chance of success in the open competition of the legal, medical, and mercantile professions."

That scandal, at any rate, has been brought to an end. A Royal Commission on the Civil Service that has been sitting for more than two years has recently published its recommendations based on four considerable volumes of evidence. It finds that the fundamental principles on which the Service is based are sound, and that its organization is, in the main, efficient. There are some defects of considerable importance, for which remedies are suggested, but the Commissioners recommend that the principle of open competition should be adhered to, and, whenever it is applicable, extended.

One of the reforms now proposed is due to the recent agitation against "blind alley" employments. At present, there are about 2,600 "boy clerks" who are recruited between the ages of fifteen and sixteen. Some of these have a chance of getting a permanent clerkship, but most of them are dismissed at eighteen. It is recommended that this class be entirely abolished, and that, in future, the lowest class in the official hierarchy shall be a "junior clerical class," recruited at sixteen, from boys who have completed the intermediate stage in secondary schools. Appointments to this class will be permanent.

1235