

killed in the process, bearing the scars of his adventure to this day.

As he grew older Charles selected law for his profession, and one day startled A. H. Case, one of the leading lawyers of the neighborhood, by walking boldly into his office and announcing a desire to serve there as general-utility boy for the privilege of reading for the bar in the odd intervals. The many mis-givings with which the attorney consented to take him in seem to have melted away soon, for with the office-boy's admission to practice there blossomed out the new law firm of Case & Curtis, and this partnership continued until the junior member entered politics.

After making his mark for efficiency as Prosecuting Attorney of Shawnee County for two terms, Curtis aspired to Congress. He was elected in 1892, and sat in the House for ten years as a Republican of the Kansas stripe—that is, generally favoring the legitimate measures of his party, but with a sharp squint towards Populism when such issues arose as the silver question or the expansion of the functions of the Government in matters ordinarily left to private enterprise. An opportunity offering in 1907, Curtis was appointed by the Governor to fill out an unexpired term in the United States Senate, and has stayed there by election ever since, except for two years when he was shut out by a technicality in party management, though the avowed choice of the people. In both houses Indian legislation naturally has interested him most, and his bent has always been towards getting the red race out of the bondage of wardship and incompetency as soon as practicable; but he never fails to go back and visit his tribe when it has a special festivity, and he has always drawn his share of tribal funds and income with the other members, and keeps his home on land which came to him through his Indian descent.

Political tradition credits Curtis with a dominating share in an incident which has borne remarkable historic fruit. When the Republican National Convention met in Philadelphia in 1900, Curtis was not a delegate, but spent a great deal of time at the Kansas headquarters, in consultation with the leaders there. Kansas was bound to put Roosevelt upon the ticket, come what might. It even threatened Mark Hanna that, unless he consented to having Roosevelt nominated for Vice-President, it would stir up an all-Western bolt against McKinley, and smash the programme of unanimity into smithereens. It was Curtis who played the part of negotiator in these proceedings. Roosevelt, after much debate, agreed to run if his nomination should come straight from the West; he was unwilling to take it from the East, as that would be a substantial victory for the Platt crowd, whom he had accused of trying to "shelve" him for their own purposes. Curtis pledged himself that it should be a super-saturated, full-measure, properly labelled, stamped, and advertised Western boom, and the bargain was struck. It had been intended at first that Kansas should make the speech presenting Roosevelt as its candidate; but Iowa felt so sore over the submergence of Dollyer that Curtis suggested that Iowa should take the honor, and "Lafe" Young, of Des Moines, was selected to make the presentation speech and start the stampede. All the world knows what followed.

TATTLER.

The Casuistry of Lynch Law

By HERBERT L. STEWART

Any one who has been present while the pros and cons of lynching were discussed by the occupants of a railway car, or by the loungers in a hotel smokeroom, must have got an insight, if not into lynch law, at least into some laws of human psychology, and into some varieties of mankind. Some such argument as the following not uncommonly develops.

The matter is broached, perhaps, by a lately arrived Englishman, who has read in his newspaper about some horrible occurrence in Georgia or Texas, and who asks with true British naiveté why "the police" did not interfere. A raucous laugh from his companions conveys to him that his question must have been unutterably foolish. He is quickly made to understand that when a mob in Georgia or Texas chooses to set upon a black man, tie him to a pillar upon the stage of a music-hall, take potshots at him with revolvers from innumerable points in the auditorium, finally anoint him with petrol and set him on fire, it is recognized in that community that a policeman's wisdom is to keep out of sight. Some one in the group, pitying a foreigner's simplicity, will explain that lynch law is the white woman's guarantee against rape by niggers, that, of course, it is *prima facie* rather shocking, but it is quite necessary, and in the South one soon gets used to it. Rough and ready justice, to be sure, but what else can be done? Surely, no one would apologize for these bestial blacks. The executioners are good fellows at heart, and they mean well. Remember Browning:

Sustainers of society—perchance
A trifle over-hasty with the hand
To hold her tottering ark, had tumbled else;
But that's a splendid fault whereat we wink,
Wishing your cold correctness sparkled so.

The tale is taken up by the inevitable person who was "born and raised in Georgia," who has listened just about enough to long-distance estimates, and who wishes that "pussy-footed editors" in New York were forced to venture their own womankind for six months amid the dangers of a colored population. He can tell the company that neither an Old Englander nor a New Englander knows anything about it, that you have got to live among the niggers of Georgia in order to realize what they are. What is the good of talking about law or police? The thing to remember about the nigger is that he is vain to the very core, that he is simply "tickled to death" at the thought of being placed, just like a white criminal, in a dock, with white attorneys arguing about him, white jurymen deliberating on his case, white reporters describing his exploits in the press (and presumably a white electrician ready to officiate at the chair). Why, it would only make a hero of him among his fellow-blacks. It would be a positive stimulus to crime. The thing to frighten him is

fire, fire seven times heated, like Nebuchadnezzar's furnace, and the sooner the New York *Nation* wakes up to that cardinal fact the better. As a sort of climax to the discussion, it often happens that one of the party, who has been regaling the rest with *risqué* anecdotes, and boasting of his own sensualities, will spring to his feet, and swear by his Maker that if ever he catches a black man who has dared to be unchaste, he will flay him alive with his own righteous hand.

We have all heard this again and again, and some of us have observed with astonishment the reluctance on such an occasion of humane and intelligent persons to venture a word of protest. The strident defender of lynching even gets a sort of admiration for his heroic wrath; has he not shown that he has "iron in the blood," the spirit of the Puritans, and so forth? And the silent listener probably fears to incur the suspicion of underestimating the heinousness of rape, or the still more distressing suspicion of an inferior refinement, which prevents him from realizing the immensity of the gulf between the races.

What relation has all this talk either to the facts of the case or to the principles on which all enlightened communities today deal with crime?

I.

It may require a residence in Georgia or Texas to discuss with knowledge the special psychology of the Southern negro, but we do not need to stir from home in order to appreciate the meaning of statistics, or to confront the tales of "men on the spot" with the evidence which the State papers of Georgia and Texas place at our disposal. What we find there is that the sexual crimes referred to will account for only an inconsiderable fraction of the lynchings which occur. Not seldom, for example, we read of the lynching of a black woman—a somewhat significant comment upon the motive of chivalry which is so much paraded. From time to time the same mob violence is used with complete impunity towards a white man, and we then know what to think of the argument from the special passions and peculiarities of the black. Last year a negro was lynched for the unspeakable offence of poisoning a mule. One day a victim is strung up to a telephone pole because he has dared to give evidence against a white man in a law court, thus showing his racial insolence. Next day a second is impaled because he has refused to give evidence, thus showing his racial contumacy. If he communicates information of crime to the police, he is lynched by the criminal's friends; if he fails to communicate such information, he is lynched by the criminal's enemies. If he makes himself obnoxious to a political clique, he can be readily got rid of, and no man will require his blood at another's hand.

In many instances it is impossible even to identify the pretended motive, and we can only conjecture that the sport was carried on in order to keep the sportsmen in practice.

The truth upon the matter is plainly this, that in the lynching districts the habit is maintained far less because any special negro tendency calls for it than because on general grounds the white man there thinks it indispensable if the blacks are to be kept in their place. It is an instrument of racial terrorism, to be displayed periodically with cause or without cause, just to show who is master. Policy of this sort is soon reinforced by the easily awakened bloodlust of a mob; to-day a lynching seems to be demanded from time to time in Georgia much as the Roman proletariat called for *panem et circenses*; Americans elsewhere have to blush with shame, to think that there are men holding American citizenship whose nervous systems need the occasional "thrill" of a fellow-creature's agony.

No doubt the situation in places where there is a numerical preponderance of the colored race is an intricate and difficult one. It is more than a State problem; it is a national problem; and in solving it the Southerner is entitled not only to sympathy, but if need be to active help from his brethren. Some other method, however, than that of mediæval tortures must be devised, and the first step towards meeting it is that those concerned shall cease trying to deceive either themselves or others regarding its cause.

II.

For the sake of argument let us grant the pretext put forward to be as true as it has been shown to be false. Let us suppose that the prevention of rape is the genuine and the sole purpose of lynching. In what respect is mob violence likely to be a better deterrent than the regular action of law?

We need not, I think, lay much stress on the suggestion that a trial would make the negro famous. To tell us that he would "feel tickled to death" at the prospect of hanging or of electrocution, even by a white sheriff, is to make an undue demand upon our credulity. If his thirst to be notorious is so eccentric as has been alleged, the legal process could be so modified as to reduce this attractive feature to a minimum. A short, decisive hearing, with no public and no reporters, should not gratify him very deeply. But such an argument seems a little too absurd to dwell upon. What we hear more about is the danger of the law's delay, and the probability that justice would be cheated by the clemency of a State Governor. It may well be that such ineffectiveness of law in the past is part of the historical explanation of the lynching practice; but surely the time when a sort of vigilance committee had to take punitive measures into its own hand has now gone by. If not, the remedy is for Georgia and Texas to set their judicial house in order. They get just that sort of Governor and that sort of Judge whom public opinion demands. But it is difficult to believe that at the present day, before a court drawn from "men on the spot," the trial of a negro for criminal assault would be protracted like a London Chancery suit, or that the Governor—a man

popularly selected—would be likely to interfere with the court's decision. More over, again and again, as in the recent case at Waco, when the death penalty had been pronounced, and when there was not the remotest chance of a reprieve, the savage orgy has taken place just the same.

Is it then that the penalties as fixed by law are insufficient? Is it necessary, as some have argued, for the object of deterrence, that death should be preceded by torture? Long ago civilized communities escaped from the fallacy of supposing that crime will be prevented in proportion as punishment is made more severe, and decided that, under no circumstances, should torture be applied. But let us admit for the moment that the ringleaders of a Georgia mob are wiser than all the criminal jurists in the world. If something worse than death should be imposed, by all means face the situation, and modify the code so as to provide for it. Whatever the punishment is to be, it will be better administered by public authority than by hooligan violence. At one time in Scotland thumbscrews and racks were held to be the only satisfactory means of spreading pure and undefiled religion. But they were applied by duly commissioned public officers; a doctor was in attendance to give such expert advice as would enable the maximum of excruciation to be inflicted, and would prevent, for example, the *faux pas* of inducing a premature swoon. The organization of the negro has special features, of which a man-trained in comparative anatomy could, no doubt, take advantage in order to intensify the suffering. The thing would be more efficiently carried out, and the dangerous passions of the multitude would not be awakened.

III.

If this is a proposal which not even the most hardened pro-lyncher would face, does not this indicate that he has never really believed in his own position? What he wants to see done he wants at the same time to have done under circumstances which will relieve those who do it of personal responsibility. He "would not play false, and yet would wrongly win." He would not defend a definite barbarity, carried out by regular process, but he would deliberately let loose the brutalized impulses of a mob, that he may be able to lay the blame for the worst that may occur on a mob's uncontrollable passion. It is so satisfying to be able to speak in the refined rhetoric of the Governor of Georgia about the "burning, boiling, roaring cauldron of the soul" of somebody else. But the Nemesis of such a policy is never far off. Lawlessness which pleases you when it is on your side has an unfortunate tendency to change sides. Encourage a mob to strike wild blows on the merest suspicion, or on no suspicion, and you cannot predict where their blows will fall next. The cauldron will not always burn, roar, and boil precisely to order.

We are sometimes impatiently told that this matter is the business of the Southern

States alone. It is nothing of the kind. As the *Nation* has repeatedly insisted, it concerns the honor of America as a whole. And, still more, it challenges the thought of every scientific student of criminology throughout the world. The advocates of lynch law have denied some of the most fundamental principles which had been reached in this field after laborious investigation. It is but fair that we should consider and judge what they have to say, and it is in view of this world-wide human interest that the present writer, although not an American citizen, has ventured to intervene. He is well aware of a people's sensitiveness to outside criticism. But in a previous contribution to criminological literature it was his pleasing duty to celebrate the efficiency and insight of American prison reformers. He has held up to public admiration their clear and timely sense of the problem to be solved, the scientific intelligence which they have brought to bear upon it, the judicious daring of their experiments, their resolute disregard of cavil, and, above all, in the special province of Recidivism, the excellence of their results as compared with those in the Old World. It is melancholy indeed that the horror enacted at Waco should find apologists among men of the same blood and brain as those who established the great model at Elmira. "With stupidity," mourned Schiller, "the gods themselves contend in vain." But the first step in the attack upon stupidity is to demonstrate that it is stupid. To remove this blot upon American life we must keep the genuine facts in such high relief before the eye of those who are not *wholly* stupid that average persons will be ashamed even to "admit that the lynchers have a case."

Correspondence

"POLITICAL CONSIDERATIONS"

TO THE EDITOR OF THE NATION:

SIR: An item of news published by a New York newspaper a little while ago seems to have been overlooked in this country, so far as editorial comment is concerned. As a matter of fact, I have not seen it mentioned even as news outside of that one paper. The Brazilian Chamber of Deputies voted to insert in their official records an address by Ruy Barbosa, Brazilian Ambassador to Argentina, in which, on the centenary of Argentine independence, he attacked German militarism. Political considerations can hardly weigh so heavily with Brazilian representatives as they weigh here, despite the fact that there must be a large population of hyphenated Brazilians. So far the only action by our representatives, who have passed over the violation of Belgium and unnumberable German atrocities, has been to enter a plea for Sir Roger Casement. It is interesting that the mover of the speech in the Brazilian Chamber spoke of "certain American Governments" which "shamelessly preserve silence," and that another spoke of the "perfidious neutrality" of one of the American Governments. Can it be that the South Americans too despise us for our neutrality? And those of us who are bitterly disappointed

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