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### Insight

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## PERFECT PENAL SYSTEMS REPLIES

**Q.** In the Sept.-Oct. issue you said that the principles of a good penal code are that punishment (a) should be proportionate to the crime and (b) should help reform the criminal. I am shocked! Followed to their logical conclusions, your principles support capital punishment. Prisons should undoubtedly be more concerned with responsibility, but they should not be involved with revenge, which belongs only to God. In the U.S.A. fewer than 1 per cent of all murderers are ever executed, and who can be sure about even their guilt? The death penalty has been proved again and again not to be a deterrent; so those who advocate it can appeal only to emotion and the desire for vengeance. [California]

The following, quoting from the Christian scholar R. Travers Herford, is one of the rare, true explanations written by a Christian re "eye for eye":

"The old law, 'an eye for an eye, and a tooth for a tooth' (Exodus 21:24), was replaced by the enactment of a fine in money as the penalty for inflicting an injury. . . . It is quite unjust to charge against the Pharisees, or the Rabbis or the modern Jews, that their religion still maintains the old *lex talionis*. That law has no more place in their religion than it has in Christianity, and it was discarded before ever Christianity appeared."

There is, indeed, no evidence that the "law" of *lex talionis* was ever enforced. The concept was discarded long before Christianity appeared and the idea of giving the other cheek appeared in Lamentations 3:30, or six centuries before Jesus.

**Q.** In your answer about penal reform you say that the "eye-

for-an-eye" code of the Old Testament is still a good guideline for today's penal systems. Christ's rejection of this code in the Sermon on the Mount you say applies only to the Christian's treatment of his personal enemies. But this is not what the Good Book says. It makes no such clarification between private and public ethics. You merely assume that it does. [California]

**A.** Let me give you the bases on which I make this "assumption." Then you decide whether or not I am justified.

(1) The Good Book says that the Sermon on the Mount was specifically delivered to Christ's personal followers. "When he sat down his disciples came to him. And he opened his mouth and taught them, saying. . . ." (Matthew 5:1, 2, R.S.V.).

(2) In Romans 13, R.S.V., national governments are described as "instituted by God," and their police powers are approved in these words: "He does not bear the sword in vain; he is the servant of God to execute his wrath on the wrongdoer." Since in Bible times swords were carried by Roman soldiers for sterner purposes than mere decoration or, say, for spanking naughty boys, I conclude that in this passage the Good Book endorses even capital punishment—hence, physical punishment of lesser sorts as well.

(3) When the enemies of Jesus abused Him *personally*, He prayed, "Father, forgive them," and lifted not a finger in self-defense. But when He saw dishonest businessmen defrauding poverty-line worshipers, He shook a scourge over their heads and drove them in terror from the Temple courts.

## QUINTUS TERTULLIAN— WHO'S HE?

**Q.** Last fall you ran a little contest to see who could identify the author who said, "It is a fundamental human right . . . that every man should worship according to his own convictions, et cetera." I thought it sounded like Jefferson or Madison—but I figured if it was that easy, you wouldn't have made a contest over it. In the next issue you announced that the author was a man called Quintus Tertullian (A.D. 160-230). Now who in the world was he? The name has a Roman sound, but that's impossible. Romans didn't believe in religious liberty. [Michigan]

**A.** Tertullian would have been a subscriber to *Liberty* if Hegstad had come along in time to edit it. He was a Roman lawyer who converted to Christianity and became one of the most vigorous writers of all time. My students love memorizing his pithy apothegms. Or say they do.

Romans actually didn't persecute very much. Religious freedom was not exactly a foundation principle of their government, but domestic peace was. If citizens started a riot against the Christians, magistrates would execute a few of them, not to destroy their religion but to calm the rabble. There were two or three really bloody intervals during the first three centuries, but in normal times any Roman could worship pretty much as he pleased so long as nobody made a fuss.

Having a few members martyred now and then made the church look like a fellowship of heroes—without actually being very dangerous. Thousands joined so they too could be (safe) heroes. Now can you guess who said, "The blood of the martyrs is the seed of the church"?

TWENTY  
SEVEN