

IN HIS OWN WORDS: JAMES WILSON ON CRUEL AND UNUSUAL PUNISHMENT

“A Charge Delivered to the Grand Jury” (1791)

Directions: Read Wilson’s “A Charge Delivered to the Grand Jury” (1791) and complete Handouts B and D.

Gentlemen of the grand jury, to prevent crimes is the noblest end and aim of criminal jurisprudence. To punish them is one of the means necessary for the accomplishment of this noble end and aim.

There are, in punishments, three qualities, which render them the fit preventives of crimes. The first is their moderation. The second is their speediness. The third is their certainty.

We are told by some writers, that the number of crimes is unquestionably diminished by the severity of punishments. [This] opinion is unfounded and . . . inconsistent with the principles of our nature, and wise and good government. . . .

When . . . punishments are moderate and mild, every one will, from a sense of interest and of duty, take his proper part in detecting, in exposing, in trying, and in passing sentence on crimes.

A nation [that tolerates] cruel punishments becomes dastardly and contemptible. For, in nations, as well as individuals, cruelty is always attended by cowardice. [Cruelty] is hostile to the prosperity of nations, as well as to the dignity and virtue of men.

Source: “James Wilson, A Charge Delivered to the Grand Jury.” The Founder’s Constitution.
<<http://press-pubs.uchicago.edu/founders/documents/amendVIII15.htm>>.