

tion, any of the public to which they thus open their doors, is to exempt theatres alone from the responsibilities attaching to most if not all other businesses which are charged by their proprietors with a public use.

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In the Metcalfe case there is still another consideration. Inasmuch as several managers conspired to exclude Mr. Metcalfe from all the theatres they represented, a question of conspiracy as well as revocable license was involved. In an English case, for instance, it was once decided that any spectator at the theatre may freely express disapproval by hissing, and consequently that the whole audience may do so; but that a conspiracy to hiss for the purpose of personal injury would not be tolerated. Applying that precedent to Mr. Metcalfe, it might be said that even if the theatres could lawfully exclude him at will, each for reasons of its own, they could not conspire to exclude him pursuant to a general purpose to injure him. But the broad ground of criticism of the New York decision is its treatment of a place of business so notably of a public character as the theatre, as if it were a purely private and personal place like the front yard of a cottage.

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#### Extending Capital Punishment.

It is characteristic of the brutal mind to meet brutishness with brutality. There is excuse for this, it may be that there is justification, when the brute in man breaks out in the momentary excitement of an assault; but when in cold blood, after the excitement, and out of the malice of revenge, law-makers set about devising brutal penalties for brutal crimes, there is neither justification nor excuse. Yet this is what the City Council of Chicago has undertaken to induce the legislature of Illinois to do. It has appointed a committee to secure a law inflicting the death penalty upon assailants of women and children. If such an assailant were killed upon the spot, it could be said that he had got his deserts. But that is not the proposition. What is proposed is a reactionary extension of the death penalty to crimes to which it has in nearly all civilized communities ceased to be applied.

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The only possible justification for the death penalty is prevention of crime. It cannot be justified at all as punishment in the sense of revenge. But nothing in penology is better proved by experience than that the death penalty

does not prevent crime. True enough, crime cannot be repeated by the convict after he is dead; but his execution does not prevent the commission of similar crimes by others. On the contrary, capital punishment tends to foster capital crimes. And this should be expected, for capital punishment is essentially immoral, and immorality naturally breeds immorality. Not only is capital punishment immoral and inexpedient, whatever the crime, but the greater the number of crimes to which it is extended the greater the probability of legally killing innocent persons.

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Advocates of capital punishment often ask why its opponents have so much sympathy for the convict and so little for his victim. This exhibits a superficial apprehension. Eagerness to kill a convict is no evidence of sympathy for his victim; it is evidence rather of a revengeful and brutal disposition, which would lead to murder under temptation. Moreover, sympathy for the convict is not necessarily sympathy for the criminal; the actual criminal may be a different person from the convict, for judges and juries and prosecutors and even witnesses are not infallible. But all this aside, the controlling reason for opposing capital punishment is neither doubt of guilt nor sympathy for the guilty, but solicitude for social morals. The spirit that insists upon capital punishment is essentially murderous, and the society where it is tolerated is to that degree morally degraded. Law-makers who are so poorly equipped for their work that they are never capable of thinking of any other deterrent for crime than revengeful and deadly penalties, would do more to check crime by resigning than by legislating.

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#### A Harsh Criticism Considered.

With reference to what we regard as the fair and thoughtful editorial letter from Prussia, which we published on the 7th (p. 316) over the signature of Gustav Buescher, we have received the following criticism from the editor of the *International Socialist Review*, Mr. A. M. Simons, who may reasonably be ranked as the American leader in what is distinguished as "scientific socialism." Mr. Simons writes:

As I can scarcely believe that you would knowingly circulate so ridiculous a falsehood as appears in the first paragraph in the second column of page 316, I write to place before you some of the facts. I do this because this same thing has been continuously circulated by the daily press of this country. I patronize a clipping bureau which sends me every-

thing appearing on socialism in any paper in Germany (or indeed in any western European country), and I give you my word that I never remember having seen any reference to the "republicanism" of the German Socialists. As a matter of fact they make nothing of this phase, and Bebel even went so far not long ago as to declare that the American republic offered little, if any, progress toward freedom, over the German empire. I do not pretend to quote him exactly, but the statement aroused considerable attention in the Socialist press, but was taken as a matter of course in Germany. I receive all the leading German Socialist papers, and as these include a number of dailies with large circulations it is a silly lie to say that "most of the Socialist voters do not even know the word" socialism, since there is nothing to distinguish these papers, so far as their philosophy goes, from the American Socialist papers. Indeed I constantly quote from them, as do all American Socialist papers. This constantly repeated falsehood is particularly stupid, since the German division of the international Socialist movement is the most orthodox in its Marxism of any large division. Incidentally your correspondent proves his own ignorance or mendacity, when in the third paragraph on the same page and column he tells how the Liberals have been driven out by the Socialists. The Liberals, with Eugene Barth, stood for all the things that he says the Socialists stand for. Their literature reads very much like the radical Democratic literature of this country. The only exception (and that an important one I will grant) was that they were Manchesterian in their economics—much the same as Jefferson. If you wish proof on any of these points I shall be glad to lay my material before any one who desires to examine it, and such an examination will quickly show the untrustworthiness of your correspondent.

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The paragraph of Mr. Buescher's letter to which Mr. Simons refers (p. 316), speaks of Socialism in Germany as follows:

It is their republicanism that makes the Socialists so disagreeable to the ruling classes of our country. I do not think that anybody is greatly concerned about the nationalization of the means of production. Most of our Socialist voters do not even know the word, not to say what the word means. The Socialist party here is nothing else than a radical labor party. Our old parties were too exclusive to care for the common people. The Socialists have been the only party that has pleaded the cause of the people, and because of this they have won the confidence of the people.

This paragraph hardly deserves Mr. Simons's rather violent criticism. While we do not doubt that Mr. Simons's clipping bureau has never sent him any newspaper references to the republicanism of the German Socialists, and acknowledge for all the purposes of Mr. Simons's criticism that there have been no such references to send, we nevertheless think it quite probable that Mr. Buescher is

right in saying that "it is their republicanism that makes the Socialists so disagreeable to the ruling classes" of Prussia. A republican sentiment might very well pervade the ranks of the Socialist party in Prussia without becoming articulate through doctrinaire leaders; and on this probability we prefer the judgment of Mr. Buescher in Prussia without a clipping service, to Mr. Simons in the United States with one. Newspapers are more apt to report the words of party leaders than the thoughts of party voters. Officially, the Socialist party of Prussia may not be republican; we confidently accept Mr. Simons's statement here. Yet the party voters may in great masses be strongly tinctured with republicanism; and on that point we do not think that Mr. Buescher's judgment is to be discredited by anybody's epithets.

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We are at a loss to understand the two other points of Mr. Simons's criticism. Our correspondent explained the indifference of the mass of Socialist voters to Socialist doctrine by saying:

I do not think that anybody is greatly concerned about the nationalization of the means of production. Most of our Socialist voters do not even know the word, not to say what the word means.

By "the word," Mr. Buescher evidently means "nationalization of the means of production." The context leaves no room for any other construction. But Mr. Simons criticizes him as if he meant "Socialism." Again, Mr. Buescher remarks in a later paragraph that—

Nearly all the Socialist victories in Germany have been won at the expense of the Liberals.

The truth of this statement is to be determined by comparative political statistics, and these bear out Mr. Buescher; but Mr. Simons attacks it as ignorant or mendacious because it doesn't stand the test of a comparison of Liberal with Socialist platforms!

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## AUTOCRATIC REPUBLICANISM.

The expression "autocratic republicanism" is paradoxical in itself, but we must at times make use of such expressions in order to give correct form to the idea we wish to define.

As autocracy and republicanism are diametrically opposed, the combination of both terms must mean something which is neither the one nor the other—a form of government that embodies neither principle completely, but professes the one in theory and applies the other in practice. Such a form of government may undoubtedly be one of the steps in the evolution from autocracy