

## THE STING OF SHAME

● Mr. SIMON. Mr. President, George Will recently had a column about our method of punishment in the United States.

We have chosen prison as a way to solve our problems of crime, and unquestionably, there are many people who commit crimes of violence who must be put into prison.

But it is also true that many are in prison who are not there for crimes of violence.

Obviously, we should do more to deal with the causes of crime. Show me an area of high unemployment—whether it is African-American, Hispanic-American, or white—and I will show you an area of high crime. To effectively prevent crime, we have to do more in the area of job creation for people of limited skills.

The suggestion of shame as a punishment strikes me as being much less expensive and perhaps just as effective. We ought to at least experiment with it.

The old stockades that the Puritans used had shame as the main punishment.

The George Will column, which I ask to be printed at the end of my remarks, ought to be considered carefully by people in the penal field.

The column follows:

[From the Washington Post, Feb. 1, 1996]

## THE STING OF SHAME

(By George F. Will)

A New Hampshire state legislator says of teenage vandals, "These little turkeys have got total contempt for us, and it's time to do something." His legislation would authorize public, bare-bottom spanking, a combination of corporal punishment and shaming-degradation to lower the offender's social status.

In 1972 Delaware became the last state to abolish corporal punishment of criminals. Most states abandoned such punishments almost 150 years ago, for reasons explained by Prof. Dan M. Kahan of the University of Chicago Law School in an essay to be published in the spring issue of that school's Law Review. But he also explains why Americans are, and ought to be, increasingly interested in punishment by shaming. Such punishment uses the infliction of reputational harm to deter crime and to perform an expressive function.

Around America various jurisdictions are punishing with stigmatizing publicity (publishing in newspapers or on billboards or broadcasting the names of drug users, drunk drivers, or men who solicit prostitutes or are delinquent in child support); with actual stigmatization (requiring persons convicted of drunk driving to display license plates or bumper stickers announcing the conviction and requiring a woman to wear a sign reading "I am a convicted child molester"), with self-debasement (sentencing a slumlord to house arrest in one of his rat-infested tenements and permitting victims of burglars to enter the burglars' homes and remove items of their choosing); with contrition ceremonies (requiring juvenile offenders to apologize while on their hands and knees).

In "What Do Alternative Sanctions Mean?" Kahan argues that such penalties can be efficacious enrichments of the criminal law's expressive vocabulary. He believes America relies too heavily on imprisonment,

which is extraordinarily expensive and may not be more effective than shaming punishments at deterring criminal actions or preventing recidivism.

There are many ways to make criminals uncomfortable besides deprivation of liberty. And punishment should do more than make offenders suffer; the criminal law's expressive function is to articulate society's moral condemnation. Actions do not always speak louder than words, but they always speak—always have meaning. And the act of punishing by shaming is a powerful means of shaping social preferences by instilling in citizens an aversion to certain kinds of prohibited behavior.

For most violent offenses, incarceration may be the only proper punishment. But most of America's inmates were not convicted of violent crimes. Corporal punishment is an inadequate substitute for imprisonment because, Kahan says, of "expressive connotations" deriving from its association with slavery and other hierarchical relationships, as between kings and subjects.

However, corporal punishment became extinct not just because democratization made American sensibilities acutely uncomfortable with those connotations. Shame, even more than the physical pain of the lash and the stocks, was the salient ingredient in corporal punishment. But as communities grew and became more impersonal, the loosening of community bonds lessened the sting of shame.

Not only revulsion toward corporal punishment but faith in the "science," as it was called, of rehabilitation produced America's reliance on imprisonment. And shame—for example, allowing the public to view prisoners at work—occasionally was an additive of incarceration. It is so today with the revival of chain gangs.

Recent alternatives to imprisonment have included fines and sentencing to community service. However, both are inadequately expressive of condemnation. Fines condemn ambivalently because they seem to put a price on behavior rather than proscribe it. The dissonance in community-service sentences derives from the fact that they fail to say something true, that the offenders deserve severe condemnation, and that they say something false, that community service, an admirable activity that many people perform for pleasure and honor, is a suitable way to signify a criminal's disgrace.

Sentences that shame not only do reputational harm and lower self-esteem, their consequences can include serious financial hardship. And Kahan argues: "The breakdown of pervasive community ties at the onset of the Industrial Revolution may have vitiated the stake that many individuals had in social status; but the proliferation of new civic and professional communities—combined with the advent of new technologies for disseminating information—have at least partially restored it for many others."

Today America has 519 people imprisoned for every 100,000 citizens. The figures for Mexico and Japan are 97 and 36 respectively. America needs all the prison cells it has and will need more. But policies of indiscriminate incarceration will break states' budgets: The annual cost of incarceration is upward of \$20,000 per prisoner and \$69,000 for prisoners over age 60. It would be a shame to neglect cheaper and effective alternatives. ●

NATIONAL ENGINEERS WEEK—  
FEBRUARY 18-24

● Mrs. HUTCHISON. Mr. President, the week of February 18-24 has been designated "National Engineers Week." It

is with great pleasure that I rise today to speak in appreciation of the contributions of the engineering profession's 1.8 million members.

It is fitting that we celebrate National Engineers Week around the time of George Washington's birthday. Our first President was, in many respects, the country's first engineer. Trained as a surveyor and engineer, President Washington encouraged private initiatives for invention, technical advancements, and education. He also promoted the construction of roads, canals, and docks and ports—often with private capital. He also sought appropriate designs for the new Nation's public buildings.

The engineering disciplines have had a tremendously positive and pervasive influence on our society. Their achievements are represented in bridges, roads, harbors, canals, and ship channels, and also in our architecture, manufacturing, scientific technology, industrial design, transport, and the delivery of various forms of energy to the Nation's factories, farms, schools, businesses, and homes.

Creative engineering is manifest also in the spirit of invention and exploration. From the development of new oil drilling equipment to the space program, engineering is a key source of our prosperity. Indeed, engineering's achievements are so widespread we tend to take them for granted, but we must not. By acknowledging the accomplishments of the Nation's engineers we also generate support for engineering education and interest in pursuing careers in the profession.

Mr. President, the finals of the National Engineers Week Future City Competition are held during this commemorative week. The competition features seven teams of seventh and eighth grade students who present their designs for cities in the 21st century using computer simulations and scale models. I want to congratulate all the engineers, teachers, and students from each of the regions competing in this demanding process, and wish each of them well in this contest and in their future endeavors.

I would also like to particularly salute the more than two dozen prominent engineers among the 1996 all stars of the profession who are leading others in a variety of activities, from school visits to media forum events.

Among the 1996 all stars are: Ron Haddock, president and CEO, Fina Oil and Chemical Co.—Dallas; Tommy Knight, president and CEO, Brown and Root—Houston; John Murphy, CEO, Dresser Corp.—Dallas; Stephen D. Bechtel, chairman Emeritus, The Bechtel Group, Inc.; Dr. Mary Cleave of NASA's Goddard Space Flight Center; John H. Gibbons, assistant to the President for Science and Technology; PBS' Bill Nye, the science guy; Dr. Arati Prabhaker, director of the National Institute of Standards and Technology; and John F. Welch, chairman and CEO, General Electric Co. ●