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Saggi

## The Marquis Beccaria: An Italian penal reformer's meteoric rise in the British Isles in the transatlantic Republic of Letters

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**Abstract.** This article traces the reception of Cesare Beccaria's book, *Dei delitti e delle pene* (1764), in Britain and in colonial and early America. That book, first translated into English as *An Essay on Crimes and Punishments* (1767), catalyzed penal reform and the anti-gallows movement on both sides of the Atlantic. As the first Enlightenment text to make a comprehensive case against capital punishment, *On Crimes and Punishments* became a bestseller, appearing in multiple English-language editions and attracting much public attention. Widely read by an array of British and American lawmakers and other civic-minded penal reformers, *On Crimes and Punishments* was printed in a number of European and American cities, including London, Glasgow, Dublin, Edinburgh, Philadelphia, Charleston, South Carolina, and New York. Beccaria's book influenced a large number of prominent figures (from William Blackstone, Jeremy Bentham, and Samuel Romilly in England to John Adams, Thomas Jefferson, James Madison and William Bradford in America), and it led to the end of the *Ancien Régime*.

**Keywords.** Cesare Beccaria, Enlightenment, *Dei delitti e delle pene*, *On Crimes and Punishments*, Penal Reform.

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### I. INTRODUCTION.

Through his influential essay on the criminal law, Cesare Beccaria had a major impact on Western civilization and legal systems around the globe<sup>1</sup>. His landscape-changing book, first published anonymously as *Dei delitti e delle pene* (1764)<sup>2</sup>, and translated into English as *An Essay on Crimes and*

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<sup>1</sup> J.D. Bessler, *The Celebrated Marquis: An Italian Noble and the Making of the Modern World*, Carolina Academic Press, Durham (NC) 2018; Id., *The Economist and the Enlightenment: How Cesare Beccaria Changed Western Civilization*, Eur. J.L. & Econ. (Sept. 23, 2016), <<http://link.springer.com/article/10.1007/s10657-016-9546-z>> (03/2019).

<sup>2</sup> The first Italian edition of Cesare Beccaria's *Dei delitti e delle pene* (1764) contains no information as to authorship or place of printing. Another Italian edition of Beccaria's *Dei delitti e delle pene*, published in 1765 and labeled the «TERZA EDIZIONE» (third edition), also does not mention Beccaria's name on the title page. That edition, described as being printed «IN LAUSANNA»

*Punishments* (1767), helped catalyze the abolition of torture and made punishments less severe<sup>3</sup>. As the first Enlightenment text to make a comprehensive case against capital punishment, it also led to the curtailment of death sentences and executions in Europe and the Americas<sup>4</sup>. Beccaria himself has been described as one of the founders of the field of criminology<sup>5</sup>.

As a foundational text, one that argued for proportion between crimes and punishments and against arbitrariness and tyranny, Beccaria's *On Crimes and Punishments* shaped constitutions and penal codes worldwide<sup>6</sup>. Through his book, one frequently reprinted and translated into several languages<sup>7</sup>, Cesare Beccaria became a

global celebrity whose name became synonymous with the Italian Enlightenment, or *Illuminismo*<sup>8</sup>. First translated into English by an unknown translator<sup>9</sup>, *Dei delitti e delle pene*, through its early Italian editions<sup>10</sup> and its French, English and other translations<sup>11</sup>, materially transformed continental European as well as Anglo-American law<sup>12</sup>.

(a false imprint, since the book was printed in Marco Coltellini's printing office in Livorno in March 1765), contains the now-famous frontispiece depicting an idealized figure, Justice, rejecting three severed heads being presented by a sword-wielding executioner. In the engraving by Giovanni Lapi, prepared upon Beccaria's instructions, Justice is instead focused on a pile of tools and shackles representing the punishment of hard labor and imprisonment. C. Beccaria, *On Crimes and Punishments*, transl. by G.R. Newman & P. Marongiu, Transaction Publishers, New Brunswick (NJ) 2009<sup>5</sup>, p. LX; C. Beccaria, *On Crimes and Punishments and Other Writings*, ed. by A. Thomas, transl. by A. Thomas & J. Parzen, University of Toronto Press, Toronto 2008, p. 166 note 36; J.D. Bessler, *The American Death Penalty: A Short (But Long) History*, in R.M. Bohm and G. Lee (eds.), *Routledge Handbook on Capital Punishment*, Routledge, New York 2017, ch. 1. Because of the Inquisition, Beccaria's book «was published anonymously at first for fear of serious religious and government reprisals» with *Dei delitti e delle pene* in fact placed on the Catholic Church's Index of Forbidden Books in 1766. J. Hostettler, *Cesare Beccaria: The Genius of 'On Crimes and Punishments'*, Waterside Press, Hampshire (UK) 2011, p. 21.

<sup>3</sup> J.D. Bessler, *The Birth of American Law: An Italian Philosopher and the American Revolution*, Carolina Academic Press, Durham (NC) 2014. An encyclopedia notes that «[t]he last recorded instance of the use of torture in England was in the reign of Charles I. (1640) to compel a confession of treason». D.C. Gilman, H.T. Peck and F.M. Colby (eds.), *The New International Encyclopædia*, Dodd, Mead & Co., New York 1911, vol. 19, p. 372. Torture was abolished considerably later in continental Europe. Prussia abolished torture in 1754, but other locales (Saxony, 1770; Poland and Austria-Bohemia, 1776; France, 1780; Tuscany, 1786; Austrian Netherlands, 1787; Sicily, 1789) abolished it only after the publication of *Dei delitti e delle pene*. J.H. Langbein, *Torture and the Law of Proof*, in W.F. Schulz (ed.), *The Phenomenon of Torture: Readings and Commentary*, University of Pennsylvania Press, Philadelphia 2007, pp. 19-26: 25.

<sup>4</sup> J.H. Langbein, *The Historical Origins of the Sanction of Imprisonment for Serious Crime*, «The Journal of Legal Studies», 5, 1976, pp. 35-60: 35 («The movement for the abolition of capital punishment is rightly associated with the writers of the Enlightenment, especially Beccaria, whose enormously influential tract appeared in 1764»).

<sup>5</sup> J.F. Anderson, *Criminological Theories: Understanding Crime in America*, Jones & Bartlett Learning, Burlington (MA) 2015<sup>2</sup>, p. 68.

<sup>6</sup> See, e.g., Bessler, *The Birth of American Law*, cit.; Id., *The Celebrated Marquis*, cit.

<sup>7</sup> Beccaria's *Dei delitti e delle pene* was continually printed and reprinted in the years after its initial publication. For example, in 1766, a sixth edition («Edizione Sesta») of Beccaria's book was published in Italian and bears the false imprint «HARLEM». It was listed to be sold («Et se vend») «A PARIS, Chez Molini Libraire, Quai des Augustins». *Dei delitti e delle pene* («Edizione Sesta: Di nuovo corretta ed accresciuta», 1766).

<sup>8</sup> B. Cassin (ed.), *Dictionary of Untranslatables: A Philosophical Lexicon*, Princeton University Press, Princeton (NJ) 2004, p. 521.

<sup>9</sup> R. Lorelli, *The First English Translation of Cesare Beccaria's On Crimes and Punishments: Uncovering the Editorial and Political Contexts*, «Diciottesimo Secolo», II, 2017, pp. 1-22. DOI 10.13128/ds-20618.

<sup>10</sup> Information on the early Italian editions of *Dei delitti e delle pene* can be found in the introduction and notes to a modern translation of *Dei delitti e delle pene*. Beccaria, *On Crimes and Punishments and Other Writings*, ed. Thomas, cit., pp. xxviii, xxx, 166 note 36. See also C. Beccaria, *On Crimes and Punishments and Other Writings*, ed. by R. Bellamy, transl. by R. Davies, Cambridge University Press, Cambridge 2003, p. XLVII («A new scholarly Edizione Nazionale of Beccaria's complete works, under the general editorial control of the late Luigi Firpo, began to appear in 1984. The first volume was *Dei delitti e delle pene*, ed. Gianni Francioni, Milan, Mediobanca, 1984»).

<sup>11</sup> The first French translation of Cesare Beccaria's *Dei delitti e delle pene* was prepared by French *philosophe* André Morellet. It appeared at the end of December 1765, with Morellet writing a letter to Beccaria on January 3, 1766 about the new translation, titled *Traité des délits et des peines*. B.E. Harcourt, *The Illusion of Free Markets: Punishment and the Myth of Natural Order*, Harvard University Press, Cambridge (MA) 2011, pp. 54-55; see also C. Beccaria, *On Crimes and Punishments*, transl. by G.R. Newman & P. Marongiu, Transaction Publishers, New Brunswick (NJ) 2009<sup>5</sup>, pp. LX-LXI («In 1765 Beccaria sent via d'Alembert a copy of the third edition to French Abbé André Morellet, who produced a French translation, which appeared in Paris on December 28, 1765 [with the false notation of à Lausanne], introducing a number of substantial changes, altering its internal structure and the position of chapters and paragraphs, leaving only four paragraphs [III, IV, V, and XIX] in their original position»). «By 1767, when the book was first translated into English, it already had been through several French and Italian editions». J.R. Lilly, F.T. Cullen and R.A. Ball, *Criminological Theory: Context and Consequences*, Sage Publications, Thousand Oaks (CA) 2007<sup>4</sup>, p. 16.

<sup>12</sup> See generally J.D. Bessler, *Revisiting Beccaria's Vision: The Enlightenment, America's Death Penalty, and the Abolition Movement*, «Northwestern Journal of Law & Social Policy», 4, 2009, 2, pp. 195-328: 195; Id., *The Italian Enlightenment and the American Revolution: Cesare Beccaria's Forgotten Influence on American Law*, «Mitchell Hamline Law Journal of Public Policy and Practice» 37, 2016, 1, pp. 1-184, Article 1. For a discussion of Beccaria's impact on America's founders, see Id., *Cruel and Unusual: The American Death Penalty and the Founders' Eighth Amendment*, Northeastern University Press, Boston 2012, pp. 31-65; Id., *Beccaria in America: How the Italian Enlightenment Shaped American Law*, in *An den Wurzeln des modernen Strafrechts: Die juristische Aufklärung Cesare Beccarias und die Strafgewalt*, Lorenzo Picotti (hrsg.), Lit Verlag GmbH & Co., Zürich 2017, pp. 107-121; K. Preyer, *Cesare Beccaria and the Founding Fathers*, in *Blackstone in America: Selected Essays of Kathryn Preyer*, ed. by M.S. Bilder, M. Marcus and R.K. Newmyer, Cambridge University Press, Cambridge 2009, p. 241; see also J.D. Bessler, *The Anomaly of Executions: The Cruel and Unusual Punishments Clause in the 21st Century*, «British Journal of American Legal Studies», 2, 2013, pp. 297-451: 324 («Blackstone's Commentaries, which also communicated Cesare Beccaria's ideas to a much wider audience, were highly influential in the American colonies and early America»).

This article will trace the early reception of Beccaria's work in Britain and America, charting its early impact and focusing on the key figures who promoted its dissemination. As I will show, Beccaria's work had enormous success in Anglophone countries, was hailed as an important, innovative contribution to legal thinking and rapidly became a bestseller. I will trace, in particular, the initial reception of *On Crimes and Punishments* in the British Isles amidst the ongoing, transatlantic book trade and the Enlightenment's vigorous, cross-cultural exchange of ideas. While the influence of Beccaria's book on English discourse on punishment has been traced by other scholars<sup>13</sup>, this article provides a comprehensive view of its early influence.

The article specifically highlights how *On Crimes and Punishments* – advertised and sold throughout the British Isles – quickly transformed the legal landscape by influencing thinkers such as Bentham and Blackstone, even if it took many years for Beccaria's ideas to bear fruit in terms of concrete penal reform<sup>14</sup>. Britain's infamous «Bloody Code» – the set of laws that, at one time, made more than 200 crimes punishable by death – had long dominated English life<sup>15</sup>. But Beccaria's book, on which Voltaire wrote a famous commentary which

was regularly reprinted with it<sup>16</sup>, helped to transform the debate in Britain, leading a number of lawmakers and legal commentators, including Basil Montagu<sup>17</sup> and Sir Samuel Romilly<sup>18</sup>, to question the efficacy and morality of severe punishments<sup>19</sup>. It took many years – indeed decades – for the British to curtail death sentences<sup>20</sup>, but today, the United Kingdom no longer uses capital punishment<sup>21</sup>.

The earliest English-language editions of Beccaria's book were printed in London in 1767 by John Almon, and in 1769, 1770, and 1775 by Francis Newbery; in Glasgow in 1770 for Robert Urie; in Dublin in 1767 and 1777 for John Exshaw; in Edinburgh in 1778 by Bell & Murray for William Gordon and William Creech, and, in another 1778 edition, by Alexander Donaldson (to be sold at his shops in Edinburgh and London). Across the Atlantic, American editions of *On Crimes and Pun-*

<sup>13</sup> E.g., H. Dunthorne, *Beccaria and Britain*, in *Crime, Protest and Police in Modern British Society: Essays in Memory of David J. V. Jones*, ed. by D.W. Howell and K.O. Morgan, University of Wales Press, Cardiff 1999; A.J. Draper, *Cesare Beccaria's Influence on English Discussions of Punishments, 1764-1789*, «History of European Ideas», 26, 2000, pp. 177-199: 177.

<sup>14</sup> See, e.g., C. Phillipson, *Three Criminal Law Reformers: Beccaria, Bentham, Romilly*, J.M. Dent and Sons, London 1923; see also D. Hirschel, W. Wakefield and S. Sasse, *Criminal Justice in England and the United States*, Jones and Bartlett Publishers, Sudbury (MA) 2008<sup>2</sup>, p. 230 (taking note of the reform efforts in England of John Howard, William Eden, Samuel Romilly and Jeremy Bentham). This article focuses on the impact of Beccaria's ideas in the British Isles in the earliest years after the publication of the first English-language translation of *Dei delitti e delle pene* appeared in London in 1767.

<sup>15</sup> J.D. Bessler, *The American Enlightenment: Eliminating Capital Punishment in the United States*, in *Capital Punishment: A Hazard to a Sustainable Criminal Justice System?*, ed. by L. Scherдин, Ashgate, Aldershot 2014, p. 97; see also F. McLynn, *Crime and Punishment in Eighteenth-century England*, Routledge, London 2002, p. xi («The Bloody Code is the name traditionally given to the English system of criminal law during the period 1688-1815. In these years a huge number of felonies punishable by death was added to the statute book»); J. Walliss, *The Bloody Code in England and Wales, 1760-1830*, Palgrave Macmillan, Cham (CH), 2018, p. 2 («Between 1688 and 1820, the number of capital crimes in England and Wales increased exponentially from fifty to over 220»). In actuality, «the likelihood of whether a capitally convicted felon was executed was often determined by the county in which they were tried and convicted» (*ibidem*, p. 80). «[T]he Bloody Code», scholar John Walliss observes, «was significantly less brutal in practice» than a reading of statute books might suggest. «While those convicted of murder more often than not expiated for their crime on the gallows», Walliss explains, «the majority of those convicted of lesser offences were often pardoned, receiving instead a sentence of transportation or even imprisonment» (*ibidem*, pp. 1-2).

<sup>16</sup> Bessler, *Cruel and Unusual*, cit., p. 48.

<sup>17</sup> Basil Montagu, of Lincoln's Inn, cited, quoted and excerpted Beccaria's work repeatedly in his own two-volume book, a compilation of writers who had addressed the subject of capital punishment. B. Montagu, *The Opinions of Different Authors upon the Punishment of Death*, Longman, Hurst, Rees, and Orme, London 1809, vol. 1, pp. 9, 18-26, 152, 208, 228, 288, 293, 295; *ibidem*, vol. 2, pp. 33, 35-36, 39, 109, 173.

<sup>18</sup> In his first speech on criminal law reform, made in 1808, Sir Samuel Romilly forthrightly acknowledged his intellectual debt to Beccaria. Bessler, *The Birth of American Law*, cit., pp. 184, 220-221.

<sup>19</sup> For a contextualization of the death penalty debate in Great Britain and the United States in the pre- and post-*On Crimes and Punishments* era, see *The Death Penalty: Debates in Britain and the US, 1725-1868*, ed. by J.E. Crimmins, Thoemmes Continuum, Bristol 2004, 7 vols.; J.D. Bessler, *The Death Penalty in Decline: From Colonial America to the Present*, «Criminal Law Bulletin», 245, 2014, 50, pp. 245-262.

<sup>20</sup> J.F. Stephen, *A History of the Criminal Law of England*, Cambridge University Press, Cambridge 2014, vol. 3, pp. 183-84 («In 1837 [...] the punishment of death for forgery was abolished in all the cases of forgery which had been declared to be capital by the act of 1830 [...] except only the case of forging the Great Seal and other public seals. This offence continued to be high treason punishable with death down to 1861, when it became a felony punishable with penal servitude for life as a maximum»); V.A.C. Gatrell, *The Hanging Tree: Execution and the English People 1770-1868*, Oxford University Press, Oxford 1994, p. 589 (noting that the last man publicly hanged in England was Michael Barrett, an Irishman, who was executed outside Newgate on May 27, 1868); compare P. King, *Punishing the Criminal Corpse, 1700-1840: Aggravated Forms of the Death Penalty in England*, Palgrave Macmillan, London 2017, p. 148 («By 1808, the year in which Romilly launched his parliamentary attack on the Bloody Code, ten months would pass by without a single hanging in London, and crime-scene hangings had reached their lowest levels for nearly 100 years»).

<sup>21</sup> See B.P. Block & J. Hostettler, *Hanging in the Balance: A History of the Abolition of Capital Punishment in Britain*, Waterside Press, Hampshire (UK) 1997, p. ix (noting that capital punishment was formally abolished in the United Kingdom in 1969); see also P. Hodgkinson & W.A. Schabas (eds.), *Capital Punishment: Strategies for Abolition*, Cambridge University Press, Cambridge 2004, p. 106 (noting that the death penalty was suspended in England and Wales in 1965); N. Twitchell, *The Politics of the Rope: The Campaign to Abolish Capital Punishment in Britain 1955-1969*, Arena Books, Bury St. Edmunds 2012 (describing the abolitionist campaign).

ishments were printed and offered for sale in 1777 in Charleston, South Carolina, by David Bruce, and in 1778 in Philadelphia, Pennsylvania, by Robert Bell<sup>22</sup>. «Cesare Beccaria's seminal *On Crimes and Punishments* (1764)», Michael Widener of Yale Law Library and Mark Weiner of Rutgers Law School write, «lay the foundation for modern penology and criminal justice». An Italian edition of *Dei delitti e delle pene*, they point out, was printed in London in 1774 for the Società dei Filosofi<sup>23</sup>.

The English-speaking publishers of Beccaria's book were prominent figures. Francis Newbery (1743-1780) was educated at Oxford and Cambridge, and was a respected London bookseller who operated out of Paternoster Row and, after the death of his father in 1767, at St. Paul's Churchyard<sup>24</sup>. Robert Urie (1711-1771) was a printer and bookseller in Glasgow from 1744 to 1771, and he published Francis Hutcheson's *Reflections upon Laughter* and translations of the works of Rousseau, Voltaire and D'Alembert, among others<sup>25</sup>. John Exshaw was an Irish bookseller, printer and publisher operating out of Dublin<sup>26</sup>, while Bell & Murray was a partnership between John Murray (1737-1793), a London bookseller, and John Bell (1735-1806), an Edinburgh bookseller<sup>27</sup>.

<sup>22</sup> This information was obtained through a search of the WorldCat database and from a dictionary of English, Scottish and Irish printers and booksellers. The Bibliographical Society at the Oxford University Press, *A Dictionary of the Printers and Booksellers Who Were at Work in England, Scotland and Ireland from 1726 to 1775*, Oxford University Press, Oxford 1932. William Creech (1745-1815) was a bookseller and publisher in Edinburgh. He was educated at Edinburgh University and, as a young man, had spent time in London, Paris and Holland and had toured continental Europe. He became the original publisher of the works of Adam Ferguson and other famous writers (*ibidem*, pp. 296-297). William Gordon, who died in 1794, was a bookseller in Edinburgh who had been sued for selling pirated editions of various works (*ibidem*, p. 312); «GORDON, William bookseller Edinburgh». National Library of Scotland, <<https://www.nls.uk/media/63385/sbti-a-m.pdf>> (04/2019).

<sup>23</sup> M. Widener & M.S. Weiner, *Law's Picture Books: The Yale Law Library Collection*, Talbot Publishing, Clark (NJ) 2017, pp. 1, 9, 122. As Widener and Weiner write of that Italian edition – and of its famous frontispiece – published in London: «The frontispiece image [...] was engraved on Beccaria's detailed instructions, and it was frequently reproduced and copied by eighteenth-century publishers. Lady Justice recoils from an executioner's offering of three decapitated heads and instead gazes approvingly at various instruments of labor, measurement, and detention» (*ibidem*, p. 122).

<sup>24</sup> *A Dictionary of the Printers and Booksellers Who Were at Work in England, Scotland and Ireland from 1726 to 1775*, pp. 178-179.

<sup>25</sup> *Ibidem*, p. 362; R.J. Jones, *Tobias Smollett in the Enlightenment: Travels Through France, Italy, and Scotland*, Bucknell University Press, Lewisburg 2011, p. 6.

<sup>26</sup> *A Dictionary of the Printers and Booksellers Who Were at Work in England, Scotland and Ireland from 1726 to 1775*, p. 383; M. Pollard, *A Dictionary of Members of the Dublin Book Trade 1550-1800 Based on the Records of the Guild of St Luke the Evangelist*, Bibliographical Society, London 2000, p. 190.

<sup>27</sup> R.B. Sher, *The Enlightenment and the Book: Scottish Authors and Their*

Alexander Donaldson (1727-1794), the bookseller in Edinburgh and London, «became known for selling cheap reprints of books which were in his opinion out of copyright»<sup>28</sup>.

The early American publishers of Beccaria's treatise were equally prominent. While David Bruce (1731-1783), a Scotsman, had settled in Charleston, South Carolina, in 1759, and had formed a lucrative partnership with Robert Wells<sup>29</sup>, Robert Bell – the Scottish-born printer who had emigrated to Philadelphia – had, during the early 1770s in Philadelphia, published and sold through subscriptions William Blackstone's four-volume *Commentaries on the Laws of England*<sup>30</sup>. Before his death in 1784, Bell – perhaps most famously – published the original edition of Thomas Paine's *Common Sense*, the political pamphlet that helped spur the American Revolution and America's quest for independence from Great Britain<sup>31</sup>. «With rare exceptions, such as octavo editions

*Publishers in Eighteenth-Century Britain, Ireland and America*, The University of Chicago Press, Chicago 2006, pp. 274, 325, 381-82, 388, 453, 703, 762; Bessler, *The Birth of American Law*, cit., p. 88.

<sup>28</sup> Sher, *The Enlightenment and the Book*, cit., p. 703; *A Dictionary of the Printers and Booksellers Who Were at Work in England, Scotland and Ireland from 1726 to 1775*, pp. 77-78.

<sup>29</sup> G.C. Rogers, Jr. and D.R. Chesnutt (eds.), *The Papers of Henry Laurens*, University of South Carolina Press, Columbia 1979, vol. 7, p. 3; *South Carolina Imprints, 1731-1800: A Descriptive Bibliography*, ABC-CLIO Information Services, Santa Barbara, CA 1985, p. xxxi. On July 31, 1777, a notice in a South Carolina publication announced that «An Edition of Beccaria on Crimes and Punishments is published here by Mr. Bruce» (*ibidem*, p. 117). That edition of *On Crimes and Punishments* also contained the commentary attributed to Voltaire (*ibidem*).

<sup>30</sup> E.C. Surrency, *A History of American Law Publishing*, Oceana Publications, New York 1990, p. 23. Robert Bell was described as a «witty, energetic, skeptical, and imaginative man» and fourteen hundred copies of Blackstone's *Commentaries* were ordered in advance from Robert Bell's print shop (*ibidem*, pp. 23-24). Robert Bell, who had been born in Glasgow, had moved to Dublin in 1759 after serving as an apprentice to Robert Taylor, a bookbinder in Berwick-upon-Tweed who is known to have been a «famous piratical printer». Bell himself was «a passionate defender of his right to reprint whatever he pleased, not only copyrighted English books but also books his colleagues in Dublin had already printed or reprinted». «In 1767», one source notes of the same year Bell emigrated from Dublin to Philadelphia, «he reprinted a pamphlet by another notorious pirate, the Scot Alexander Donaldson» and was «apparently driven out of town by Irish booksellers whom he had "printed upon"». J.N. Green, *English Books and Printing in the Age of Franklin*, in *A History of the Book in America: The Colonial Book in the Atlantic World*, ed. by H. Amory and D.D. Hall, University of North Carolina Press, Chapel Hill 2009, vol. 1, p. 284.

<sup>31</sup> Sher, *The Enlightenment and the Book*, cit., pp. 512, 528. It was Dr. Benjamin Rush – a disciple of Beccaria – who suggested the title of Paine's famous political pamphlet, the original proposed title being «Plain Truth». E.A. Duyckinck and G.L. Duyckinck, *Cyclopædia of American Literature*, Ch. Scribner, New York 1856, vol. 1, p. 198. David Bruce, the South Carolina printer, also reprinted Thomas Paine's *Common Sense*. G.C. Rogers, Jr. and D.R. Chesnutt (eds.), *The Papers of Henry Laurens*, University of South Carolina Press, Columbia 1979, vol. 7, p. 3.

of Beccaria's *Essay on Crimes and Punishments* and *Miscellanies* by M. de Voltaire», Richard Sher writes in *The Enlightenment and the Book* of America's Revolutionary War period, «Bell limited his Enlightenment publications during the early years of the war to smaller works»<sup>32</sup>.

All these editions and translations, as well as all the people who read, and then quoted from, *On Crimes and Punishments*, made Beccaria's ideas ubiquitous in the late eighteenth and early nineteenth centuries. While Beccaria was regularly hailed as a «genius» or as «benevolent», «celebrated», «enlightened», «humane», «illustrious» or «learned»<sup>33</sup>, Beccaria's *Dei delitti e delle pene* – as the *Encyclopedia of Italian Literary Studies* puts it – «is widely considered the most important work» of the Italian Enlightenment<sup>34</sup>. As Piers Beirne writes in *Inventing Criminology*: «The first copies of *Dei delitti* were printed in Livorno and circulated anonymously in the summer of 1764. Beccaria's short treatise of 104 pages was an instant and dazzling success». In addition to the English-language editions of *Dei delitti e delle pene* printed from 1767 to 1778 that are listed above<sup>35</sup>, the following additional editions of *An Essay on Crimes and Punishments* were published in these locations (listed by year) by these publishers before 1800: London (1782) by printers and booksellers Charles Dilly and John Debrett (successor to Mr. Almon); London (1785) by E. Newbery; London (1786) for John Murray; Edinburgh (1788) by James Donaldson; and Philadelphia (1793) by William Young<sup>36</sup>.

All the translations and editions of Beccaria's book – ones that continued to be produced into the nineteenth century<sup>37</sup> – made it the equivalent of a modern-day best-

seller. «By 1800», scholar Piers Beirne points out, «there had been no less than twenty-three Italian editions, fourteen French editions, and eleven English editions (three printed in the United States)»<sup>38</sup>. In 1786, William Bradford – one of James Madison's closest college friends, later the Attorney General of the United States but then serving as Pennsylvania's attorney general – tellingly wrote about Beccaria to Luigi Castiglioni, a botanist from Milan who visited North America from 1785 to 1787 and who had befriended Benjamin Franklin<sup>39</sup>. In presenting Castiglioni with a new American edition of *On Crimes and Punishments* in the wake of the Revolutionary War (1775-1783), Bradford had this to say in 1786 about Beccaria's much-celebrated book: «Long before the recent Revolution, this book was common among lettered persons of Pennsylvania, who admired its principles without daring to hope that they could be adopted in legislation, since we copied the laws of England, to whose laws we were subject»<sup>40</sup>.

In *A History of Political Economy* (1888), John Kells Ingram – a fellow of Trinity College, Dublin – emphasized that Beccaria «holds a foremost place» among those «in closest harmony with the general movement which was impelling the Western nations towards a new social order». In particular, Ingram wrote that Beccaria became «best known by his celebrated treatise *Dei delitti e delle pene*, by which Voltaire said he had made him-

phen Gould); Philadelphia, 1819 (published by Philip H. Nicklin).

<sup>32</sup> P. Beirne, *Inventing Criminology: Essays on the Rise of 'Homo Criminalis'*, State University of New York Press, Albany 1993, p. 13. In December 1793, Robert Southey, in a letter written from Bath to Horace Walpole Bedford, listed Beccaria's *Dei delitti e delle pene* among his «pocket companions», calling Beccaria «the philosopher of humanity». Southey added in that letter: «Beccaria pleases me much. I had long been self-convinced that the punishment of death was as improper as it was inhuman. Godwin carries this idea farther». Southey had borrowed the first volume of William Godwin's *An Enquiry Concerning Political Justice* (1793) from the Bristol Library Society between November 25 and 28, 1793 and the second volume between December 9 and 18, 1793. Robert Southey to Horace Walpole Bedford, 12[-15] December 1793, available at <[https://www.rc.umd.edu/editions/southey\\_letters/Part\\_One/HTML/letterEE.26.72.html#back6](https://www.rc.umd.edu/editions/southey_letters/Part_One/HTML/letterEE.26.72.html#back6)> (03/2019). In *An Enquiry Concerning Political Justice*, Godwin had quoted *Dei delitti e delle pene* in Italian and referred to «[t]he humane and benevolent Beccaria» (W. Godwin, *An Enquiry Concerning Political Justice, and Its Influence on General Virtue and Happiness*, G.G.J. & J. Robinson, London 1793, vol. 2, p. 716 and note \*). Another prominent writer, the English poet and politician Lord Byron, himself owned a copy of Beccaria's book, admired Beccaria's bust in the Biblioteca Ambrosiana on a 1816 visit to Milan, and noted in a 1816 letter to his publisher, John Murray, that Beccaria had «published such admirable things against the punishment of death» (A.A. Schmidt, *Byron and the Rhetoric of Italian Nationalism*, Palgrave Macmillan, New York 2010, p. 18).

<sup>39</sup> Luigi Castiglioni's *Viaggio: Travels in the United States of North America, 1785-1787*, ed. and transl. by A. Pace, Syracuse University Press, Syracuse (NY) 1983.

<sup>40</sup> Bessler, *The Celebrated Marquis*, cit., p. 243.

<sup>32</sup> Sher, *The Enlightenment and the Book*, cit., p. 530. Robert Bell's 1778 edition of *On Crimes and Punishments* contained the commentary attributed to Voltaire. His reprinting of Voltaire's *Miscellanies* was also printed in Philadelphia in 1778. E.T. Bannet, *Transatlantic Stories and the History of Reading, 1720-1810: Migrant Fictions*, Cambridge University Press, Cambridge 2011, p. 259; H.C. Jacobs, *Gegen Folter und Todesstrafe*, Peter Lang, Frankfurt am Main 2007, p. 164.

<sup>33</sup> Bessler, *The Celebrated Marquis*, pp. 9, 15, 23, 101, 126, 134, 171, 178, 180, 183, 201, 211, 217, 233-236, 246, 259, 269, 272, 284, 286-287, 290, 299, 302-304, 310, 315-316, 321-323.

<sup>34</sup> G. Marrone (ed.), *Encyclopedia of Italian Literary Studies*, Routledge, New York 2007, vol. 1, p. 145.

<sup>35</sup> See *supra* text accompanying note 22.

<sup>36</sup> Bessler, *The Birth of American Law*, cit., pp. 75, 77, 80, 88, 91-92, 396. This information on editions of Beccaria's book was also obtained through a WorldCat database search.

<sup>37</sup> A WorldCat database search reveals the following editions (listing by location of publication and date) of *An Essay on Crimes and Punishments* that were published in the first two decades of the nineteenth century: London, 1801 (printed by E. Hodson for J. Bone); London, 1804 (printed for H.D. Symonds); Edinburgh, 1807 (Bell & Bradford); Boston, 1809 (published by Farrand, Mallory and Co.); Philadelphia, 1809 (published by William P. Farrand and Co.); New York, 1809 (Ste-

self a benefactor of all Europe, and which, we are told, has been translated into twenty-two languages»<sup>41</sup>. After the initial publication of *Dei delitti e delle pene*, Voltaire had called Beccaria «a brother» and «a beneficent genius whose excellent book has educated Europe». In a subsequent letter to Voltaire, sent in 1777, Prussia's powerful monarch, Frederick II, similarly wrote: «Beccaria has left nothing to glean after him; we need only to follow what he has so wisely indicated»<sup>42</sup>.

## II. VOLTAIRE'S COMMENTARY AND EARLY ENGLISH-LANGUAGE EDITIONS OF BECCARIA'S BOOK.

Voltaire was reading Beccaria's *Dei delitti e delle pene* in Italian by the autumn of 1765, and after another Frenchman, the abbé André Morellet, translated Beccaria's book into French later that year, his fellow *philosophe*, Voltaire, decided to write a commentary on it<sup>43</sup>. While editions of André Morellet's Italian-to-French translation, published in 1766 by Evert van Harrevelt as *Traité des délits et des peines*, appeared in Amsterdam, other early French editions – also printed in 1766 – appeared with false designations as being published in «LAUSANNE» and «PHILADELPHIE»<sup>44</sup>. Voltaire fin-

ished his own commentary on Beccaria's book by September 1766, and he had published it anonymously as *Commentaire sur le livre Des délits et des peines, par un avocat de province*. As Ian Davidson writes in *Voltaire: A Life*: «Voltaire's authorship was quickly known, and his *Commentaire* gave substantial new impetus to the international renown of Beccaria. Later in the eighteenth century, in Italy, France, England and Germany, the two books were often published together in the same volume»<sup>45</sup>.

This was, to modern eyes, a time of extreme brutality and grotesque executions, both in the British Isles and in continental Europe. In London, Tyburn's scaffold – once known as the «triple tree» – was still in use, with oxen- or horse-drawn carts pulling the condemned to the place of execution<sup>46</sup>. Across the English Channel, in an especially horrific death, Robert-François Damiens had only recently, in 1757, been horrifically tortured and drawn and quartered for attempting to assassinate King Louis XV<sup>47</sup>. In February 1766, a French aristocrat, Jean François Lefèvre, chevalier de La Barre, of Abbeville, had also, much to Voltaire's chagrin, been found guilty of blasphemy and sacrilege and then been condemned to have his tongue torn out, to be beheaded, and to have his body burned on a pyre. A copy of Voltaire's *Dictionnaire philosophique portatif* had been found in La Barre's room by the chief investigating magistrate, the mayor of Abbeville, and that book was also ordered to be burned in the same pyre. After La Barre's sentence was confirmed by the *parlement* of Paris in June 1766, La Barre was tortured for an hour –

<sup>41</sup> J.K. Ingram, *A History of Political Economy*, Adam & Charles Black, Edinburgh 1888, p. 73.

<sup>42</sup> Bessler, *The Birth of American Law*, cit., pp. 61, 146.

<sup>43</sup> I. Davidson, *Voltaire: A Life*, Pegasus Books, New York 2012, ch. 27. Morellet had toured Italy in the 1750s, with 1766 being the publication date of Morellet's French translation of *Dei delitti e delle pene*. Francis Lieber (ed.), *Encyclopaedia Americana: A Popular Dictionary of Arts, Sciences, Literature, History, Politics and Biography*, Lea & Blanchard, Philadelphia 1844, vol. 9, pp. 39-40.

<sup>44</sup> *Traité des délits et des peines, traduit de l'Italien, D'après la troisième Edition, revue, corrigée & augmentée par l'Auteur*, E. van Harrevelt, Amsterdam 1766 (with the following rectangular stamp on the title page «Koninklijke Bibliotheek te 's Hage»); *Traité des délits et des peines, traduit de l'Italien, D'après la troisième Edition, revue, corrigée & augmentée par l'Auteur* (1766) (not listing «Amsterdam» on the title page but containing the same rectangular stamp, «Koninklijke Bibliotheek te 's Hage»); *Traité des délits et des peines, traduit de l'Italien, D'après la troisième Edition revue, corrigée & augmentée par l'Auteur* («Philadelphie» 1766); see also M. Foucault, *The Punitive Society: Lectures at the Collège de France, 1972-1973*, ed. by B.E. Harcourt, transl. by G. Burchell, Palgrave Macmillan, New York 2015, p. 41 note 28; L. De Michelis, *Letters from London: A "Bridge" between Italy and Europe*, in *The Centre and the Margins in Eighteenth-Century British and Italian Cultures*, ed. by F. O'Gorman and L. Guerra, Cambridge Scholars Publishing, Newcastle upon Tyne (UK) 2013, p. 49 note 3 («Morellet's translation [...] was published in Paris at the end of December 1765 with the false imprint of Lausanne, 1766»); E.R. James, *A List of Legal Treatises Printed in the British Colonies and the American States Before 1801*, The Lawbook Exchange, Union (NJ) 2002, p. 180 (taking note of «A Philadelphie» marking on an early French translation of Beccaria's treatise but noting: «It is doubtful whether this is an American print. Types and ornaments seem to point to a European origin»). Evert van Harrevelt (1729-1783) was a printer in Amsterdam. L.P. Sloos, *Warfare and*

*the Age of Printing Catalogue of Early Printed Books from Before 1801 in Dutch Military Collections with Analytical Bibliographic Descriptions of 10,000 Works*, Brill, Leiden 2009, pp. 330, 333; K. van Strien, *Isabelle de Charrière (Belle de Zuylen) Early Writings: New Material from Dutch Archives*, Éditions Peeters, Louvain 2005, pp. 18-19, 105, 331. Morellet, who later translated Thomas Jefferson's *Notes on the State of Virginia*, took considerable liberties in translating Beccaria's text, reordering it and changing it significantly. Morellet's translation of Beccaria's book was nonetheless celebrated by prominent French *philosophes*. D. Gish and D. Klinghard, *Thomas Jefferson and the Science of Republican Government: A Political Biography of Notes on the State of Virginia*, Cambridge University Press, Cambridge 2017, p. 255.

<sup>45</sup> Davidson, *Voltaire*, cit., ch. 27; L. Silverman, *Tortured Subjects: Pain, Truth, and the Body in Early Modern France*, The University of Chicago Press, Chicago 2001, pp. 167, 230 note 53.

<sup>46</sup> A. McKenzie, *Tyburn's Martyrs: Execution in England, 1675-1775*, Hambledon Continuum, London 2007, p. 10; see also S. Wade, *Jane Austen's Aunt Behind Bars: Writers and Their Criminal Relatives and Associates, 1700-1900*, Thames River Press, London 2013, p. 16: «Until 1760, a "triple tree" was used at Tyburn: a wooden frame with three sides, so that several people could be hanged at once; this was replaced by a portable gallows in that year»; *ibidem*: «Hangings at Tyburn (close to Marble Arch) ended in 1783 and from December of that year executions took place at Newgate».

<sup>47</sup> Bessler, *The Birth of American Law*, cit., pp. 46, 95, 103, 305.

and then executed – on July 1, 1766, again drawing Voltaire's ire<sup>48</sup>.

In England and France, public executions were then routine<sup>49</sup>. When La Barre was taken to the place of execution, the authorities dispensed with tearing out his tongue, but he was forced to wear a placard that read «*Impie, blasphémateur, et sacrilège abominable et exécration*», translated in two English-language sources as «Impious, sacrilegious and hateful blasphemer». As ordered, La Barre was beheaded before his body was burned on a pyre along with the copy of Voltaire's book<sup>50</sup>. An incensed Voltaire – writing under the pseudonym «Mr. Cass \*\* Avocat au Conseil du Roi» – thereafter wrote a 24-page pamphlet entitled *Relation de la Mort du Chavalier de La Barre (Account of the Death of the chevalier de La Barre)*, a 1766 pamphlet that made explicit reference to the by then much-celebrated marquis, Cesare Beccaria. As Ian Davidson explains of Voltaire's pamphlet: «Voltaire concealed his authorship, ostensibly representing it as if it were a memorandum from Maître Pierre Cassen, a well-known real-life Paris lawyer and a relative of Damilaville, addressed to the Marchese Cesare Beccaria, the celebrated Milanese author of *Dei Delitti e delle Pene* and pioneer of penal reform»<sup>51</sup>.

The first English-language editions of *An Essay on Crimes and Punishments* were printed in London and Dublin in 1767 after La Barre's execution. The first edition printed in England was published in February 1767 by John Almon, a Whig journalist who worked as a

printer and bookseller in London. Almon strongly sympathized with American revolutionaries, and he was a close friend of the English radical John Wilkes, a rabble-rousing, liberty-loving British journalist and politician. Wilkes had faced charges of seditious libel in 1763, then took refuge in France shortly before being declared an outlaw. While exiled in Paris, Wilkes met and dined with Cesare Beccaria and his traveling companion, Alessandro Verri, while the two were visiting Paris in late 1766 at the invitation of the French *Encyclopédistes*<sup>52</sup>. In mid-January 1767, the Milanese aristocrat Alessandro Verri – then in London, and having just been in Paris in late 1766 with Beccaria himself – had written to his older brother, Pietro Verri: «Beccaria's book is being translated into English for the first time» and «it will see the light in a few days»<sup>53</sup>.

In April 1767, *The Critical Review* – a publication printed in London «for A. HAMILTON, in *Falcon-Court, Fleet-Street*», ran a lengthy review of Beccaria's *On Crimes and Punishments*, giving it a burst of initial publicity. The review of the book published by Almon began: «The publication of this book in our language cannot fail of being very agreeable to those who have not read the original, as there are few people who do not wish to obtain some knowledge of a performance which hath been so frequently mentioned, and so universally read in every other part of Europe». «The author», the review continued, «is now generally known to be the marquis Beccaria of Milan, who, we are informed, resides at present at Paris, having, since the publication of this book, been obliged to leave Italy for fear of consequences». «Indeed, in point of expression», the review wrote of Beccaria and his much-lauded book, «he seems to have been studiously careful not to give offence; but he censures the established laws of his country with so much freedom, and breathes such a spirit of liberty, that his apprehensions were probably not without foundation»<sup>54</sup>.

<sup>48</sup> Davidson, *Voltaire*, cit., ch. 28.

<sup>49</sup> P. Friedland, *Seeing Justice Done: The Age of Spectacular Capital Punishment in France*, Oxford University Press, Oxford 2012; P. Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century*, Verso, London 2003; H. Johnston, *Crime in England 1815-1880: Experiencing the Criminal Justice System*, Routledge, London 2015, p. 64; see also D. Garland, *Peculiar Institution: America's Death Penalty in an Age of Abolition*, The Belknap Press of Harvard University Press, Cambridge, 2010, p. 108 (noting that England did not abolish public executions until 1868 and that France did not do so until 1939).

<sup>50</sup> *Dictionnaire Universel, Historique, Critique et Bibliographique*, Paris 1810, vol. 5, p. 564; *Nouvelle Encyclopédie Théologique* (1863), vol. 10, p. 581; Davidson, *Voltaire*, cit., ch. 28; B. Mesler and H.J. Cleaves II, *A Brief History of Creation: Science and the Search for the Origin of Life*, W.W. Norton & Co., New York 2015, ch. 4.

<sup>51</sup> I. Davidson, *Voltaire in Exile: The Last Years, 1753-78*, Grove Press, New York 2004, p. 172. Etienne Noël Damilaville, Davidson notes, «was one of Voltaire's closest and most loyal friends» and had discreetly distributed copies of Voltaire's *Dictionnaire Philosophique* to Voltaire's friends and trusted associates (*ibidem*, p. 140). Voltaire extensively used pseudonyms to conceal his identity, particularly for his most controversial works. As one scholar notes: «No writer of the century relished pseudonyms as much as Voltaire did, and altogether they number many hundreds» (N. Cronk, *Voltaire and Authorship*, in *The Cambridge Companion to Voltaire*, ed. by N. Cronk, Cambridge University Press, Cambridge 2009, pp. 39-40).

<sup>52</sup> I.R. Christie, *John Wilkes: British Journalist and Politician*, in *Encyclopædia Britannica*, <<https://www.britannica.com/biography/John-Wilkes>> (03/2019); Lorelli, *The First English Translation of Cesare Beccaria's On Crimes and Punishments*, cit., pp. 1, 17.

<sup>53</sup> *Ibidem*, pp. 7 and note 22, 8-11; see also *ibidem*, p. 8: «The first reviews of the English text appeared in April 1767, confirming what Verri's letters suggest, namely that the translation was published in February»; *ibidem*, p. 8 note 27 (noting that the English translation «is mentioned in the column "A Catalogue of New Books" of the April issue of *The Scots Magazine*). From 1775 to 1784, Almon – through *The Remembrancer* – published a monthly report of news from America (*ibidem*, p. 12).

<sup>54</sup> *The Critical Review: Or, Annals of Literature*, A. Hamilton, London 1767 (produced «By a Society of Gentlemen»), pp. 251-252. By the beginning of 1767, Cesare Beccaria was actually no longer in Paris. Beccaria had traveled from Milan to Paris in October 1766, leaving Milan in early October and arriving in the City of Light on October 18,



The seven-page review of Beccaria's *Essay on Crimes and Punishments* and Voltaire's accompanying *Commentary* gave the English-language edition printed by John Almon significant public exposure. In particular, the review highlighted Beccaria's view that laws should be crafted to serve «*the greatest happiness of the greatest number*», as well as Beccaria's concern about «the cruelty of punishments, and the irregularity of proceedings in criminal cases». After taking note of Beccaria's ideas, the review then turned to existing English laws, with the reviewer writing: «Part of the evils complained of in these general reflections have indeed been remedied in this country; but part of them still continue. Possibly the time may come when our penal laws may undergo a thorough reformation». The review went on to highlight various excerpts from chapters of Beccaria's book, including the ones on torture and «*On the proportion between crimes and punishments*».

After quoting one passage about freedom, the reviewer in *The Critical Review* observed, «What Englishman can read this passage, and not feel his heart warm towards a man, who, notwithstanding the principles in which he was born and educated, is capable of uttering such sentiments of liberty?». The review, after excerpting a number of important passages, concluded with these complimentary words: «These few extracts, we presume, will be sufficient to give the reader an idea of the entertainment he may expect in the perusal of this performance, which we recommend as being one of the most original books which the present age hath produced». «As to the translation», the review observed, «we have compared it with the Italian, and find it not only just, but, in many places, superior to the original in point of perspicuity». «This testimony», the review continued as it came to an end, «we think due to the translator, especially as it is so seldom in our power to speak thus favourably of translations from foreign books»<sup>55</sup>.

1766. However, Beccaria only stayed in Paris for a few weeks, and he had arrived back in Milan on December 12, 1766. M.T. Maestro, *Cesare Beccaria and the Origins of Penal Reform*, Temple University Press, Philadelphia 1973, pp. 52, 59; P. Groenewegen, *Eighteenth-century Economics: Turgot, Beccaria and Smith and Their Contemporaries*, Routledge, London 2002, p. 41 note 13; D. Williams (ed.), *The Enlightenment*, Cambridge University Press, Cambridge 1999, p. 440.

<sup>55</sup> *The Critical Review: Or, Annals of Literature*, A. Hamilton, London 1767 (produced «By a Society of Gentlemen»), pp. 252-255, 257. The review of Voltaire's commentary began with these words: «We shall pass over the remainder of this essay in order to give our readers a few extracts from the commentary attributed to M. de Voltaire. We cannot proceed, however, without first expressing our approbation of the word *attributed* in the title, which is a proof of honesty highly commendable, and rarely practiced. There are few translators who would not so far have availed themselves of common report, as to omit the word *attributed*, especially as common report is the only authority we have for many of Mr. Voltaire's pieces, and more particularly, as this

The first English-language edition of Beccaria's book – the one printed by John Almon – was advertised for sale in 1767 in *The London Magazine* for «4s. 6d». (four shillings and 6 pence). And additional extracts from *On Crimes and Punishments* were printed in that magazine that same year. On June 6, 1767, one letter writer – using the pseudonym «PHILANTHROPOS» – sent a letter «To the AUTHOR of the LONDON MAGAZINE» that began as follows:

*Since you gave a place in your valuable collection, once and again, to some thoughts of mine on Capital Punishments, I have had the pleasure of meeting with a similarity of sentiments in some considerable writers on the same subject. Particularly Dr. Delany, in one of his sermons; and more lately in a treatise entitled Essay on Crimes and Punishments; which the Critical Reviewers recommend as being one of the most original books which the present age has produced: and which hath led them to say; «possibly the time may come when our penal laws may undergo a thorough reformation». This time 'tis hoped, it not very distant. To hasten it, such publications have a manifest tendency. And possibly a few extracts from the treatise mentioned may contribute to it*<sup>56</sup>.

In the November 1767 issue of *The London Magazine*, that same letter writer wrote again «To the AUTHOR of the LONDON MAGAZINE». «I thank you for inserting in your very useful collection those extracts from the *Essay on Crimes and Punishments*, which I lately sent you», that letter began. The letter writer then gave excerpts of «Dr. Delany's sentiments» from «his seventh sermon» – the one referenced in the prior letter to the publisher signed «PHILANTHROPOS». Near the end of that letter, the letter writer – after quoting from Dr. Delany's sermon<sup>57</sup>, which called sending men to the gal-

commentary bears very strong marks of the style and manner of that author: as for example, in his chapter *On the punishment of hereticks*» (*ibidem*, p. 255).

<sup>56</sup> *The London Magazine, Or, Gentleman's Monthly Intelligencer*, London 1767, vol. 36, pp. 205, 289-90, 306-308, 575. The letter writer then proceeded to extract multiple excerpts from *On Crimes and Punishments*. *Ibidem*, pp. 307-308. Signing the letter, «Your humble servant, PHILANTHROPOS», the letter writer made this concluding observation in the letter to the publisher of *The London Magazine*: «The above detached, curtailed passages could have been enlarged, had I not feared their length would exclude them. If you think fit, and can allow sufficient room, you may make such additions as will be acceptable to your readers; many of whom will not peruse the essay from whence they are taken: though probably some of them (and those not the least respectable) may be induced to it by these extracts» (*ibidem*, p. 308). *The London Magazine* was published monthly by Richard Baldwin of «*Paternoster-Row*» in the City of London (*ibidem*, *Preface*).

<sup>57</sup> The sermon of Dr. Patrick Delany, an Irish dean, was published in London in 1766. P. Delany, *Eighteen Discourses and Dissertations upon Various Very Important and Interesting Subjects*, J. Johnston, London 1766, p. 155. In Sermon VII of that collection, said to be «Preached in

lows for stealing sheep a form of «cruelty and iniquity» akin to «Draco's laws» – wrote: «I will conclude with a few lines of the celebrated Rousseau. “The frequency of executions (says he) is always a sign of the indolence of government. There is no malefactor who might not be made good for something; nor ought any person to be put to death, even by way of example, except such as could not be preserved without endangering the community”»<sup>58</sup>.

In 1767, while *Dei delitti e delle pene* was stirring up controversy in Britain, France and elsewhere<sup>59</sup>, John Exshaw – the Dublin printer – also published Beccaria's *On Crimes and Punishments* (denoted as «THE FIFTH EDITION»<sup>60</sup>) accompanied with the commentary explicitly attributed to Voltaire. That edition also reprinted the «PREFACE OF THE TRANSLATOR, TO THE FIRST EDITION»<sup>61</sup>. Meanwhile, *On Crimes and Punishments* continued to be regularly advertised for sale, as it would be for decades to come, with the Marquis Beccaria's name growing in prominence<sup>62</sup>. As more and more peo-

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the College of Dublin», Dr. Delany preached on «*Thou shalt not steal*», though he lamented that «the laws of our land, in the case of theft, are the most unrighteous and unequitable that can be imagined». «Here», he said, «the stealing of a cow, or a sheep, is death by the law! now, what can be more unrighteous, or absurd, than that the life of a man should be estimated by that of a cow or a sheep?» (*ibidem*, pp. 155, 160-161).

<sup>58</sup> *The London Magazine, Or, Gentleman's Monthly Intelligencer*, London 1767, vol. 36, pp. 575-77 (quoting «Treatise on the Social Compact», p. 54). The letter writer, seeking to impact the public debate over executions, went on to tell the publisher of *The London Magazine*: «Nor will you, sir, be sorry that you have had a hand in awakening the public attention to it. May it not be hoped, that some good effect will in time be produced thereby? Nay, are not executions now less frequent than formerly? At the last Lent-assize held for the county where I live, six criminals were condemned to dye for divers thefts and robberies, but were all——all reprieved. A noble instance of wise clemency, unparalleled perhaps in our history! – May we not hope that the minds of our honourable legislators will be possessed with such sentiments?» (*ibidem*, p. 577).

<sup>59</sup> *Réfutation Du Traité des Délits et Peines* (1767) («Par M. MUYART DE VOUGLANS, Avocat au Parlement»). The French writer Pierre François Muyart de Vouglans wrote «a much-cited attack» on Beccaria's book, with Muyart de Vouglans defending the use of judicial torture. M. Farrell, *The Prohibition of Torture in Exceptional Circumstances*, Cambridge University Press, Cambridge 2013, p. 211; B.E. Harcourt, *Beccaria's On Crimes and Punishments: A Mirror on the History of the Foundations of Modern Criminal Law, in Foundational Texts in Modern Criminal Law*, ed. by M.D. Dubber, Oxford University Press, Oxford 2014, p. 41; J.Q. Whitman, *Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe*, Oxford University Press, Oxford 2003, p. 163.

<sup>60</sup> A fifth Italian edition of Beccaria's *Dei delitti e delle pene* had been published in April 1766. Loretti, *The First English Translation of Cesare Beccaria's On Crimes and Punishments*, cit., pp. 16, 19; Beccaria, *On Crimes and Punishments and Other Writings*, ed. Thomas, cit., p. 171.

<sup>61</sup> Cesare Beccaria, *An Essay on Crimes and Punishments, with a Commentary, Attributed to Mons. De Voltaire*, John Exshaw, Dublin 1767.

<sup>62</sup> *A Sentimental Dialogue between Two Souls, in the Palpable Bodies of an English Lady of Quality and an Irish Gentleman* (1768) (by «Tristram

Shandy»), pp. 1-11 (containing this advertisement under the heading «*This day are published*»: «An Essay on Crimes and Punishments. Translated from the Italian of the Marquis Beccaria. In one volume, octavo. Price 4s. 6d»).  
<sup>63</sup> «Debates of a Political Club» *The London Magazine: Or, Gentleman's Monthly Intelligencer*, R. Baldwin, London 1772 (Aug. 1772 ed.), vol. 41, p. 351.  
<sup>64</sup> *An Essay on Crimes and Punishments, Translated from the Italian; with a Commentary Attributed to Mons. De Voltaire, Translated from the French*, F. Newbery, London 1769<sup>2</sup>.

ple read Beccaria's book, the debates over penal laws – and what some felt to be «obsolete and useless statutes» – only intensified<sup>63</sup>. In 1769, «THE SECOND EDITION» of *An Essay on Crimes and Punishments* had been «Printed for F. Newbery, at the Corner of St. Paul's Church-yard»<sup>64</sup>. That edition again reprinted the translator's preface, which read in part: «The author is the Marquis Beccaria, of Milan. Upon considering the nature of the religion and government under which he lives, the reasons for concealing his name are obvious, the whole was read, at different times, in a society of learned men in that city, and was published at their desire»<sup>65</sup>.  
 Around that time, Beccaria's pioneering work as an economic thinker – due in part to his appointment in Milan as a new professor of political economy – also came to light in the British Isles<sup>66</sup>. In 1769, an English-language translation of Beccaria's inaugural lecture in political economy, at Milan's Palatine School, was printed in London<sup>67</sup>. Published as *A Discourse on Public Economy and Commerce*<sup>68</sup>, that lecture had been translated by Sylvester Douglas (1743-1823), a recent gradu-

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Shandy»), pp. 1-11 (containing this advertisement under the heading «*This day are published*»: «An Essay on Crimes and Punishments. Translated from the Italian of the Marquis Beccaria. In one volume, octavo. Price 4s. 6d»).

<sup>63</sup> «Debates of a Political Club» *The London Magazine: Or, Gentleman's Monthly Intelligencer*, R. Baldwin, London 1772 (Aug. 1772 ed.), vol. 41, p. 351.

<sup>64</sup> *An Essay on Crimes and Punishments, Translated from the Italian; with a Commentary Attributed to Mons. De Voltaire, Translated from the French*, F. Newbery, London 1769<sup>2</sup>.

<sup>65</sup> *Ibidem*, pp. iv-v. In Milan, Beccaria was a member of the Academy of Fists, of which brothers Pietro and Alessandro Verri were also members. Both of the Verri brothers played a role in helping Beccaria write and edit his book, *Dei delitti e delle pene*; Bessler, *The Celebrated Marquis*, cit., pp. 50-52, 63, 92, 130. «THE FOURTH EDITION» of *An Essay on Crimes and Punishments*, showing the demand for Beccaria's book, was «Printed for F. Newbery, at the Corner of St. Paul's Church-Yard» in 1775. *An Essay on Crimes and Punishments, Translated from the Italian; with a Commentary Attributed to Mons. De Voltaire, Translated from the French*, F. Newbery, London 1775<sup>4</sup>.

<sup>66</sup> Bessler, *The Celebrated Marquis*, cit., pp. 178-179. See «National Edition of the Works of Cesare Beccaria» Mediobanca, <https://www.medio-banca.com/en/media-relations/edizione-nazionale-cesare-beccaria.html>. See also L. De Michelis, «Una rete immensa lega tutte le verità»: Cesare Beccaria's Lectures on Public Economy and Sylvester Douglas's Translation of His «Discourse on Public Economy and Commerce», in L. De Michelis, L. Guerra and F. O'Gorman (eds.), *Entangled Histories: Politics and Culture in 18th-Century Anglo-Italian Encounters*, Cambridge Scholars Publishing, Newcastle 2019 (forthcoming).

<sup>67</sup> S. Copley and K. Sutherland (eds.), *Adam Smith's Wealth of Nations: New Interdisciplinary Essays*, Manchester University Press, Manchester 1995, p. xii; *Catalogue of the Library of the Patent Office*, The Commissioners of Patents' Sale Department, London 1881, vol. 1, p. 78; J. Raven, *London Booksellers and American Customers: Transatlantic Literary Community and the Charleston Library Society, 1748-1811*, University of South Carolina Press, Columbia 2002, p. 434 note 244.

<sup>68</sup> C. Beccaria, *A Discourse on Public Economy and Commerce*, J. Dodsley and J. Murray, London 1769.

ate of the University of Aberdeen in Scotland who had visited Milan before Beccaria gave his lecture and began teaching classes in his native city. In a short preface to the English-language translation, Douglas emphasized that «the following discourse» was by «the celebrated author of the “Treatise on Crimes and Punishments” at the opening of a new professorship instituted last winter at Milan, for teaching this science». Noting Beccaria’s growing reputation but modest demeanor, Douglas stressed: «The genius of the author almost insures the merit of his lectures. Though his modesty had long been a bar to that encouragement which his talents deserve, yet it is known that he was invited to Petersburg by the most flattering offers, to assist in digesting the code of laws lately published by the Czarina»<sup>69</sup>. While Russian Empress Catherine II had invited Beccaria to come to St. Petersburg to help her reform Russian law, Beccaria declined the invitation. He instead accepted the teaching position in Milan, a chair conferred upon him by Austria’s Habsburg ruler, Maria Theresa<sup>70</sup>.

Because of Beccaria’s quickly spreading fame from *On Crimes and Punishments*, *The Critical Review* decided to review *A Discourse on Public Economy and Commerce*, even though the review found Beccaria’s discourse on economics less compelling than his prior work. Noting that the pamphlet reprinting his inaugural lecture was being offered for sale for «1s. 6d». (1 shilling, 6 pence), *The Critical Review* emphasized in the opening two sentences of its review: «The observations of this writer are plausible, and in some parts masterly, but, we are afraid, impracticable. To think of reducing political

œconomy and commerce to a system, as he does, is a mere chimera». «Nothing ought to give greater pleasure to an Englishman than to hear foreigners talk and write in this manner», the review nonetheless professed, noting that «[i]t is certain, that England has arrived at the present amazing pitch of greatness chiefly by trusting to experience and mechanical habits». «These», the review observed, «we are so far from thinking to be blind directors, that we believe them to be the eyes of a trading people, and the polar stars by which politics, so far as they relate to public œconomy and commerce, ought to be directed»<sup>71</sup>.

### III. THE DISCIPLES: WILLIAM BLACKSTONE, JEREMY BENTHAM, ET AL.

Sir William Blackstone was an early admirer of *On Crimes and Punishments*. When the fourth volume of his *Commentaries of the Laws of England* was published in 1769, Blackstone lamented: «It is a melancholy truth, that among the variety of actions which men are daily liable to commit, no less than a hundred and sixty have been declared by act of parliament to be felonies without benefit of clergy; or, in other words, to be worthy of instant death»<sup>72</sup>. It was in that same volume, Book Four, covering «Of Public Wrongs», that Blackstone praised Beccaria as «an ingenious writer, who seems to have well studied the springs of human action, that crimes are more effectually prevented by the certainty, than by the severity, of punishment». Blackstone agreed with Beccaria that «preventive justice is upon every principle, of reason, of humanity, and of sound policy, preferable in all respects to punishing justice». Blackstone specifically cited Beccaria for the proposition «as punishments are chiefly intended for the prevention of future crimes, it is but reasonable that among crimes of different natures those should be most severely punished, which are the most destructive of the public safety and happiness». Blackstone spoke pejoratively of both «cruel punishments» and «severe punishments» and, then, citing Beccaria with respect to an «ingeniously proposed» idea, observed:

<sup>69</sup> J.R. McCulloch, *The Literature of Political Economy: A Classified Catalogue of Select Publications in the Different Departments of that Science, with Historical, Critical, and Biographical Notices*, Longman, Brown, Green, and Longmans, London 1845, p. 27; Bessler, *The Celebrated Marquis*, cit., p. 178. Catherine II issued *Instructions* for the reformation of Russian law in 1767 after consulting the works of Montesquieu, Beccaria and other Enlightenment thinkers, from whom she liberally borrowed. «Within four years of its appearance (1767)», one source notes, «it was published in twenty-four foreign versions». Th. Riha (ed.), *Readings in Russian Civilization: Imperial Russian, 1700-1917*, The University of Chicago Press, Chicago 1969<sup>2</sup>, vol. II, p. 252. Catherine II, also known as Catherine the Great, wrote her *Nakaz (Instructions)* to guide the activities of a commission set up for drafting a new code; those instructions, setting forth general principles, were later translated into English and published in London. A.N. Medushevsky, *Russian Constitutionalism: Historical and Contemporary Development*, Routledge, London 2006, pp. 73-74; *The Grand Instructions to the Commissioners Appointed to Frame a New Code of Laws for the Russian Empire Composed by Her Imperial Majesty Catherine II, Empress of all the Russias*, transl. by M. Tatischeff, T. Jefferys, London 1768. «Of its 655 clauses» one source notes, 108 were «derived wholly or in large measure» from Beccaria’s *On Crimes and Punishments*. Bruno Aguilera-Barchet, *A History of Western Public Law: Between Nation and State*, Springer, Cham (CH) 2015, p. 275 note 49.

<sup>70</sup> Bessler, *The Celebrated Marquis*, cit., pp. 9, 171-173, 177, 259.

<sup>71</sup> *The Critical Review: Or, Annals of Literature*, A. Hamilton, London 1769 («By A Society of Gentlemen»), vol. 28, pp. 69-70. I have discussed Cesare Beccaria’s ideas on crimes and punishments and economics in two prior books. See Bessler, *The Birth of American Law*, cit.; and Id., *The Celebrated Marquis*, cit.

<sup>72</sup> D.J. Boorstin, *The Mysterious Science of the Law: An Essay on Blackstone’s Commentaries Showing How Blackstone, Employing Eighteenth-Century Ideas of Science, Religion, History, Aesthetics, and Philosophy, Made of the Law at Once a Conservative and a Mysterious Science*, The University of Chicago Press, Chicago 1996, p. 150.

*It is moreover absurd and impolitic to apply the same punishment to crimes of different malignity. A multitude of sanguinary laws (besides the doubt that may be entertained concerning the right of making them) do likewise prove a manifest defect either in the wisdom of the legislative, or the strength of the executive power. It is a kind of quackery in government, and argues a want of solid skill, to apply the same universal remedy, the ultimum supplicium [ultimate punishment], to every case of difficulty. It is, it must be owned, much easier to extirpate than to amend mankind: yet that magistrate must be esteemed both a weak and a cruel surgeon, who cuts off every limb, which through ignorance or indolence he will not attempt to cure. It has been therefore ingeniously proposed, that in every state a scale of crimes should be formed, with a corresponding scale of punishment, descending from the greatest to the least: but, if that be too romantic an idea, yet at least a wise legislator will mark the principal divisions, and not assign penalties of the first degree to offences of an inferior rank<sup>73</sup>.*

Blackstone's *Commentaries* went through multiple editions, further highlighting Beccaria's reform-minded ideas on the criminal law to members of the legal profession and to lawmakers and the general public more broadly. The fifth edition of Blackstone's *Commentaries*, for example, was published by Oxford's Clarendon Press in 1773, with each edition of that popular treatise giving further public exposure to Beccaria's ideas as the Italian thinker's name appeared multiple times in it<sup>74</sup>. Likewise, the seventh edition of Blackstone's *Commentaries* appeared in 1775, also getting printed in Oxford<sup>75</sup>. Few, if any, legal texts, in fact, can be matched – at least from an historical perspective – in terms of the influence that was exerted on the law than Blackstone's *Commentaries*. In «250 Years of Blackstone's *Commentaries*: An Exhibition», the exhibition's curators – Wilfrid Prest at the University of Adelaide and Michael Widener at the Yale Law School's Lillian Goldman Law Library – emphasized in 2015 of the true scope of influence of Blackstone's *Commentaries*: «In her massive *Bibliographical Catalog of William Blackstone*, published for the Yale Law Library by William S. Hein & Co. to coincide with the 250th anniversary of the *Commentaries*, the late Ann Laeuchli lists the details of 55 English and Irish and no fewer than 139 American editions produced between the 1760s and the first decade of the

present century». «This», they write, «is to say nothing of abridgements, extracts, translations, and adaptations of the *Commentaries*»<sup>76</sup>.

In 1776, Jeremy Bentham – an early reader of Beccaria and, also, an early commentator on Blackstone – anonymously published *A Fragment on Government*, a response to Sir William Blackstone's *Commentaries on the Laws of England*<sup>77</sup>. That essay got some attention, and both Bentham and Beccaria ended up corresponding with French *philosophes* and influencing a number of English and other penal reformers<sup>78</sup>. In his *Fragment on Government*, Bentham called Beccaria the «single Censor» among «the multitude of *Expositors*» on «the Jurisprudence of every nation». Though the French jurist, Montesquieu, of course could not go unmentioned in his essay, Bentham, in his *Fragment on Government*, gushed of his Italian idol: «When Beccaria came, he was received by the intelligent as an Angel from heaven would be by the faithful. He may be styled the father of *Censorial Jurisprudence*. Montesquieu's was a work of the mixed kind. Before Montesquieu all was unmixed barbarism»<sup>79</sup>. After reading Beccaria's book, Bentham wrote in praise of his Italian intellectual muse: «Oh, my master, first evangelist of Reason, you who have made so many useful excursions into the path of utility, what is there left for us to do»<sup>80</sup>?

References to Cesare Beccaria's *On Crimes and Punishments* can be found in multiple early English sources, some of which – like Beccaria's own book – went through multiple editions. For example, in *Principles of Penal Law*, William Eden – also known as Baron Auck-

<sup>76</sup> *250 Years of Blackstone's Commentaries: An Exhibition* (curated by Wilfrid Prest and Michael Widener), available at <<http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1009&context=amlaw>> (03/2019), p. vii. In introducing the exhibition, Kevin M. Marmion, the president of William S. Hein & Co., had this to say: «Blackstone's *Commentaries* is one of the most important treatises ever written in the English language, by perhaps the foremost figure in Anglo-American law» (*ibidem*). «Blackstone» one modern source notes, «made use of influential international texts of his own generation, some of which, such as Montesquieu's *Spirit of the Laws* and Beccaria's *On Crimes and Punishments*, we now regard as seminal» (W. Blackstone, *Commentaries on the Laws of England*, Book IV. *Of Public Wrongs*, ed. by R. Paley, cit., p. ix). It was, at least in part, through Blackstone's *Commentaries* and the publicity that treatise provided to Beccaria's ideas that Cesare Beccaria became such a well-known figure in Anglo-American law.

<sup>77</sup> J. Bentham, *A Fragment on Government; Being an Examination of What is Delivered, on the Subject of Government in General, in the Introduction to Sir William Blackstone's Commentaries; with a Preface in Which Is Given a Critique of the Work at Large*, J. Sheppard et al., Dublin 1776.

<sup>78</sup> J. Bentham, *A Fragment on Government* (1776), ed. by F.C. Montague, Clarendon Press, Oxford 1891, pp. 1-3, 5-8.

<sup>79</sup> *Ibidem*, pp. 31-32, 105 note 2.

<sup>80</sup> C.J. Larson and G.R. Garrett, *Crime, Justice, and Society*, AltaMira Press, Lanham (MD) 1996<sup>2</sup>, p. 178.

<sup>73</sup> W. Blackstone, *Commentaries on the Laws of England*, Book IV. *Of Public Wrongs*, ed. by R. Paley, Oxford University Press, Oxford 2016, p. 11.

<sup>74</sup> W. Blackstone, *Commentaries on the Laws of England*, Clarendon Press, Oxford 1773<sup>5</sup>, vol. 4, pp. 3, 16 note v, 17 and note x, 40 note h, 155 note c, 156 note f, 326, 357 note e, and 397 note o.

<sup>75</sup> W. Blackstone, *Commentaries on the Laws of England*, Clarendon Press, Oxford 1773<sup>7</sup>.

land – cited the work of the Marquis Beccaria multiple times in his own popular book<sup>81</sup>. Beccaria's *On Crime and Punishments* was also cited in *Political Disquisitions: Or, An Enquiry into Public Errors, Defects and Abuses*, a book published in London in 1774. In that source, chapter three – entitled «*The Colonies, though so valuable to Britain, have been greatly oppressed by the Mother Country*» – quoted the following passage from Beccaria's treatise: «Every act of authority of one man [or body of men] over another, for which there is not an absolute necessity, is tyrannical»<sup>82</sup>. William Dodd, in his sermon, *The Frequency of Capital Punishments Inconsistent with Justice, Sound Policy, and Religion*, also cited «the Marquis de Beccaria's Essay on crimes and punishments» along with the commandment, «THOU SHALT NOT KILL»<sup>83</sup>.

That sermon, written by Dodd, the Chaplain to the King, was reportedly «intended to have been preached in the Chapel Royal at St. James's, but was omitted on account of the absence of the Court during the author's month of waiting»<sup>84</sup>. The sermon, originally printed in London in 1772, was later reprinted in Dublin in 1777. In it, Dodd had this to say: «There are, no doubt, some crimes so atrocious in their nature, so immediately injurious to society, that they must and ought to be *capitally punished*. But, allowing this, the question still recurs, and seems not easy to be resolved: nor can those laws well be justified, which, in a variety of instances, exact the extremest penalty for offense by no means extreme in their nature». As Dodd's sermon continued:

*To those who are acquainted with the nature of our constitution, the mildness of our government, the temper of our people, and particularly the humane and benevolent spirit which characterizes the present times; to such, it may well*

<sup>81</sup> W. Eden, *Principles of Penal Law*, B. White & T. Cadell, London 1775 (3d ed.), pp. 163, 288 note o, 322-333 note b, 323; see also *ibidem*, pp. 288, 311 note h (citing «the French Commentary on the M. Beccaria»).

<sup>82</sup> *Political Disquisitions: Or, An Enquiry into Public Errors, Defects and Abuses*, E. and Ch. Dilly, London 1774, vol. 2, p. 291 note a. Beccaria's name also appears in many books and pamphlets printed in America both before and after the issuance of the Declaration of Independence. Bessler, *The Birth of American Law*, cit.; Id., *The Celebrated Marquis*, cit.; see also J.D. Bessler, *The Baron and the Marquis: Liberty, Tyranny, and the Enlightenment Maxim that Can Remake American Criminal Justice*, Carolina Academic Press, Durham (NC) 2019 (describing the influence of the writings of Montesquieu and Beccaria in the United States); *The Patriots of North-America: A Sketch*, New York 1775, p. 26 (a line of poetry reads, «Thy Beccaria peaceful dwells»).

<sup>83</sup> This sermon was originally published in 1772. W. Dodd, *The Frequency of Capital Punishments Inconsistent with Justice, Sound Policy, and Religion: Being the Substance of a Sermon*, W. Faden, B. Law and C. Dilly, London 1772, pp. 3, 11 note \*; see also *The Monthly Review; Or, Literary Journal*, R. Griffiths, London 1772, vol. 46, p. 548 (taking note of William Dodd's published sermon).

<sup>84</sup> This is noted in an «ADVERTISEMENT» following the title page that accompanied the printed sermon.

*seem strange, if not wholly incredible, that the evil just referred to should be found amongst us, and that of all nations upon earth, the laws of England perhaps should be the most sanguinary: there being in them, as I am credibly informed, above one hundred and fifty capital cases; and, in full proof thereof, almost continual executions»<sup>85</sup>*

William Dodd's sermon argued for the preservation of life whenever possible. As Dodd wrote at some length:

*In a nation like ours, crowded with business, and extensive in dominion, the life of the subject, of the common people especially, (those nerves and sinews of a state) is peculiarly valuable: and consequently, every method to promote and increase population must be desirable and important. But what can be more contrary to this end than the cutting off continually, numbers of these subjects, and that, for the most part, at a very early period of life, when the ends of government might be better answered by saving them, and those lives be rendered useful to the community?*

*For, it is evident to the slightest observation, that the only ends at which government can be supposed to aim, in the execution of criminals, are not answered by the frequency of our executions. Correction and example are the only proper objects of punishment. It is plain that the former can never be attained by the death of the sufferer; and for the latter, we are every day fully assured, that public executions are not of the least avail. The common people flock to them, as to a spectacle, in which they are gratified! and we constantly hear of crimes, not less flagitious than those for which the criminal is to die, perpetrated even at the very place and moment of his punishment.*

*And if neither example nor reformation is effected by the death of these offenders; if the state is in no respect benefited, but on the contrary injured, by the diminution of its members; If all the good ends of punishment may be attained, and better attained, by subjecting such offenders to perpetual servitude and labour; does not the voice of humanity, of christian charity and benevolence, unite with that of sound Policy, to implore from the throne of princes this salutary amendment of the laws»<sup>86</sup>?*

Invoking the by then well-known work of Cesare Beccaria, William Dodd – calling Beccaria «the illustrious Italian» – then emphasized in his sermon:

*An able and illustrious foreigner, whose work breathes the true spirit of humanity and freedom, hath urged a vari-*

<sup>85</sup> W. Dodd, *The Frequency of Capital Punishments Inconsistent with Justice, Sound Policy, and Religion: A Sermon*, W. Hallhead, Dublin 1777, pp. 11, 13-14, 19 note \*. In Dodd's sermon, he quoted this passage from Blackstone's *Commentaries*: «It is a melancholy truth, that among the variety of actions which men are daily liable to commit, no less than 160 have been declared by acts of parliament to be felonies without benefit of clergy, or, in other words, to be worthy of instant death» (*ibidem*, p. 14 note \*).

<sup>86</sup> *Ibidem*, pp. 15-17.

ety of arguments on the Topick, well known, I persuade myself, to this audience, and therefore the less necessary to be insisted on at present. He seems to have proved beyond dispute what I have suggested before, "That the punishment of death can never be just, in cases of that nature to which we refer." Nor are his arguments less conclusive, to shew the superior advantages arising from condemning offenders to servitude and labour. "It is not the intensesness of the pain (he has justly remarked) which has the greatest effect on the mind, but its continuance: For our sensibility is more easily and more powerfully affected by weak but repeated impressions, than by a violent but momentary impulse." The death of a criminal is a terrible but momentary impulse, and therefore a less efficacious method of deterring others, than the continual example of a man deprived of his liberty, and condemned as a beast of burden to repair by his labours the injury he has done to society<sup>87</sup>.

Demonstrating that he, like everyone else in the British Isles, was living in the Age of Beccaria, Dodd's sermon tellingly ended with an extended excerpt – and plea – from *On Crimes and Punishments*. Calling the frequent use of executions «a Barbarism» in «a christian country», Dodd passionately quoted Beccaria's call for the recognition of a more reasoned criminal justice system and the abolition of capital punishment. As Dodd wrote, quoting Beccaria:

[T]o conclude in the words of the illustrious Italian before mentioned – "If these truths should haply force their way to the thrones of princes, Be it known to them, that they come attended with the secret wishes of all mankind. And tell the sovereign, who deigns them a gracious reception, that his fame shall out-shine the glory of conquerors; and that equitable posterity will exalt his peaceful trophies above those of a Titus, an Antoninus or a Trajan"<sup>88</sup>.

Unfortunately for Dodd, he himself was executed in the same year that his sermon was reprinted; he had been convicted of forgery and, despite strenuous efforts by many people to secure his pardon, Dodd was put to death at Tyburn on Friday, June 27, 1777<sup>89</sup>. At his sentencing, William Dodd had been ordered «to be hanged by the neck» until he was dead<sup>90</sup>.

<sup>87</sup> *Ibidem*, pp. 17-18, 22.

<sup>88</sup> *Ibidem*, pp. 21-23. At the end of his sermon, William Dodd included «extracts translated from the EMPRESS of RUSSIA's celebrated Code of Laws, as it cannot fail to be agreeable to the Reader to know the sentiments of so great and able a Legislator on the subject of this Discourse: and indeed it is highly pleasing to observe not only the justice, but the humanity, which runs through this admirable Code» (*ibidem*, pp. 24-30).

<sup>89</sup> J. Villette, *A Genuine Account of the Behaviour and Dying Words of William Dodd, LL.D.*, «Printed for the Author», London 1777, p. 4, 15.

<sup>90</sup> *An Account of the Life and Writings of William Dodd, LL.D.*, M. Hingeston and J. Williams, London 1777, p. 73. When imposing a death

#### IV. CONCLUSION.

In Britain, Cesare Beccaria's *On Crimes and Punishments* materially influenced the debate surrounding the administration of the criminal law. It took many years for Beccaria's rational and humane approach to persuade members of Parliament to dismantle Britain's «Bloody Code», but Beccaria's influence was felt almost immediately. By March 1779, a London journal, *The Literary Fly*, specifically identified Beccaria – along with Montesquieu, Voltaire and Blackstone – as part of an eighteenth-century «enlightened» quartet who had «echoed to each other»<sup>91</sup>. The identification of these four figures as «the first ornaments of the age» – one from Italy, two from France, and one from England – demonstrates how the Enlightenment, and its quill pen-, printing press-, and transatlantic book trade-driven Republic of Letters, was not centered in any one country or place<sup>92</sup>. In fact, Montesquieu, Voltaire and Blackstone all, themselves, have important Beccaria-related connections. It was Montesquieu who, through his popular books, *Persian Letters* and *The Spirit of the Laws*, inspired Beccaria's literary endeavors in the first place; it was Voltaire who wrote the famous commentary on *Dei delitti e delle pene* that helped publicize it and who called Beccaria a brother who had educated Europe; and it was Blackstone who, through his famous *Commentaries*, had helped to spread Beccaria's fame far and wide, not only throughout the British Isles, but in distant America where those *Commentaries* were widely read by colonists and early Americans<sup>93</sup>. Cesare Beccaria's meteoric rise in the British Isles from the 1760s onward was thus no accident; it was a product of Beccaria's clear thinking and accessible style and the enlightened times in which intellectuals such as Beccaria lived.

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sentence, an English judge would regularly pronounce: «[Y]ou are to go from hence to the place from whence you came, and thence to the place of execution, where you are to be hanged by the neck till you are dead, and God have mercy upon your soul» (M. Grosley, *A Tour to London: or, New Observations on England, and Its Inhabitants*, transl. by Th. Nugent, Lockyer Davis, London 1777, vol. 2, p. 142).

<sup>91</sup> W. Prest, *William Blackstone: Law and Letters in the Eighteenth Century*, Oxford University Press, Oxford 2008, p. 308.

<sup>92</sup> *The Literary Fly*, Mar. 6, 1779, No. VIII, p. 1.

<sup>93</sup> Bessler, *The Celebrated Marquis*, cit., pp. 10, 12-13, 45, 55, 75, 113, 183, 300; Id., *The Birth of American Law*, cit., p. 61.

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