

THE INDETERMINATE SENTENCE.*

If social science were not blinded by tradition nor hampered by custom, it would quickly establish the one right method of dealing with crime. Since every man's liberty is a sacred right, as far as it is consistent with the rights of his fellows, it would direct that no man be imprisoned unless it is clear that his freedom is dangerous to others, and that, when once imprisoned, no man be freed until the danger has ceased. This is the principle of what is inexactly called the indeterminate sentence. When society detects an enemy, let it restrain him until he is reconciled to it. The best explanations and criticisms of this principle, in its relations to psychology, to social philosophy and to the facts of experience, are found in the proceedings of the National Prison Association of the United States, especially in certain memorable addresses by Messrs. Z. R. Brockway and Eugene Smith of New York, by Mr. Charles Dudley Warner of Connecticut, and by Dr. Wines of Illinois. It is impossible within my limits to treat the several branches of the subject in detail, and I shall aim simply to sum up the results established by the discussion, and to give some indication of the possible future development of the principle.

The traditional custom is to define by law the several acts constituting crimes and to attach to each a penalty with some reference to the supposed guilt which it reveals. The crude and terrible penal codes of our ancestors prescribed death for every felonious act; but of minor offenders some forfeited their land or goods, others were banished, or suffered some bodily mutilation, or were sent to the pillory or the whipping-post. Prisons were at first regarded almost exclusively as places for securely detaining the accused until trial, and the convict until punishment. But as men grew more humane, or at least more refined, the infliction of death and of all forms of torture became distasteful and rare; and imprisonment for specified terms was gradually substituted. This change, the result of sentiment and convenience, and not at all of any reasoned conviction that confinement serves a better purpose, is now almost complete and universal. Our penal codes assign imprisonment as a penalty

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for nearly every act they forbid, but by specifying a maximum and a minimum term, leave it to the trial judge to fix the duration of imprisonment within these limits according to his view of the criminal's deserts.

This system has often been exposed as absurd in principle and as grossly wrong and injurious in practice. It is founded on the false notion that the state can and ought to apportion retribution for offenses. It requires of every criminal judge an utter impossibility, and results in gross and startling inequalities whenever an attempt is made to apply it. Nor does it effectively promote the sole end of criminal law, the protection of society. There are but two conceivable ways of protecting the community against its enemy, the criminal; to disarm him or to reconcile him. But the time sentence does neither. It restrains him until the term ends, as if one should cage a man-eating tiger for a month or a year, and then turn him loose. There is nothing in such a sentence which tends to reconcile him to his fellows. It commonly aims at nothing more than to restrain him and hold him safely for the term, and in most cases he is discharged more the foe of mankind than before.

This terrible indictment of the penal code in its traditional form has never been answered. It admits of no answer, and while many jurists and legislators still cling to the notion of graduated penalties, and strive in vain to develop it in harmonious systems of laws, while it defaces our statute-books, and its administration disgraces our courts, misnamed halls of justice, no intelligent man ventures to defend it as a principle. Its frightful inequalities, its tangled absurdities, its misleading and pernicious influence on the popular mind, would but be made more conspicuous and repulsive by any candid apologist. The method of apportioning penalties according to the degrees of guilt implied by defined offenses is as completely discredited, and is as incapable of a part in any reasoned system of social organization, as is the practice of astrology or the police against witchcraft. It holds its place merely by the tenacity of custom and the inertia of opinion controlled by tradition. The origin of it was the native impulse to return evil for evil. Every brute and every man whose nature is brutal seeks instinctively to hurt those who hurt him, and the notion of retributive justice in all its forms is but the development of this crude instinct. The satisfaction of this sentiment by inflicting punishments proportioned to our estimate of guilt is no more rational than the satisfaction of the rattlesnake in biting the stick which strikes him. The thirst of the human animal for vengeance, when it actuates a whole community, and is expressed in law and executed by judicial tribunals, is dis-

guised, indeed; its coarseness is mitigated, and the disturbance of civil order by private feuds is avoided. But any penal code which attempts to inflict penalties commensurate with offenses has this passion for its inspiration and its source; and is but organized lynch law. The character of the act is not changed by the numbers who commit it, and the community which deliberately injures a man because he has offended is at least as brutal and irrational as the man or the beast who impulsively avenges a wrong. The entire abandonment of retribution as a motive is the first condition of a civilized criminal jurisprudence.

It follows, if prisons are to be used at all, that it must be because they are necessary to protect society, that is, either to disarm its enemy, the criminal, or to reconcile him. If he cannot with safety to others enjoy his freedom, he must be confined and prevented from practicing crime. There is no other justification for confining him. This principle determines at once the nature and duration of the confinement. The restraint must be just what is necessary to control him, every feature of it must be directed so as to prepare him, if possible, for freedom, and it must last just as long as he is unfit to be free. Let society hold its enemy in duress until he ceases to be its enemy. This rule protects the community and furnishes to the criminal the motive for adjusting himself to its order. The prisoner becomes the arbiter of his own fate. He carries the key of his prison in his own pocket. There is ever before him the definite alternative, to frame his life and character according to law and duty and go forth a free man among his fellows, or to cherish his rebellious temper and vile instincts and remain in duress. Hour by hour, night and day, the sense that he must work out his own destiny grows upon him. The strongest motive known to human nature gradually comes to inspire his daily thoughts and efforts. If he has in him a capacity, however dulled or obscured, for manly exertion, foresight, ambition, it is aroused and developed. An enslaved people rising against oppressors, and fighting to the death for freedom, is esteemed a noble theme for eloquence and song; and not less inspiring to every lover of mankind is a band of prisoned convicts, whose hearts and lives have once been wasted and trodden by evil passions and brutal impulses, now struggling to put down these tyrants and win back for themselves the free light and air of manhood and of heaven. When liberty is thus achieved, it will be valued indeed and will not lightly be lost again.

But a new and noble motive does not suddenly become dominant in any character, least of all when it must reverse the habits of a

life. The convict is commonly defective in mind, often in body; and his particular defects must be studied by those who would supply or remove them. That this may often be done, to an extent that must amaze the most sanguine believer in humanity, has been proved in a thousand instances, but it is a work calling for trained intelligence, unwearied effort, and a patience almost divine. The principle of the reformatory sentence, in its completeness, implies the conversion of the prison into an institution combining the means and aims of hospital, school and church, for the healing and culture of body, mind and will. Unattainable as is this ideal, and impracticable as the suggestion of it may seem, it is to be held in view as the standard by which our partial and tentative reforms must be measured; and just in the degree that it is approached will the possible beneficence of the principle be realized.

One defect which is so common as to be almost characteristic of the convict, is the want of skill and training in any honest pursuit. If he is sent out into the world in this condition, he is under fearful pressure to return to crime, the only trade he knows; and it is too much to hope that any prison-born purpose or conviction will long sustain him against it. Yet the state is daily turning loose men whom it has held as wards for years, without giving a thought to their industrial education. Whatever employment it gives the prisoners is contrived and carried on solely for its immediate pecuniary results, or else with the political end of satisfying the demagogues who misrepresent and disgrace "organized labor." Not a tithe of the convicts discharged from such imprisonment are able to support themselves by work. But under the reformatory sentence, the prisoner is trained in the employment for which he is found most competent, and is released on trial, only when a self-supporting engagement is secured for him.

It is obvious that such a system as this revolutionizes the relations of the prisoner to all the agents of society who deal with him. Their aim is no longer to hold him securely in subjection, as the mere slave of the state, during the allotted term, then to be discharged of all responsibility for him, but they have before them the definite purpose to prepare him for freedom. The spirit of the institution undergoes a wonderful change when the reformatory idea supplants that of punishment. The prison of the old style faces the past, and forever looks backward to the crimes committed, of which the sentences awarded are a perpetual reminder. The true reformatory has turned to the future, and hears "a trumpet in the distance pealing news of better." On the one is inscribed, "Leave hope behind, all ye that enter here!" On the other, "Never

despair! Seek, and ye shall find. Knock and it shall be opened unto you."

It is doubtless true, as far as we can judge, that there are some natures too degraded, usually too deformed, to be controlled by such motives and influences; criminals by constitution or inveterate habit, who can never be fitted for free social life. If so, no good can come of turning them loose. The only proper disposition of such men is to keep them permanently under restraint. The habitual criminal demands far more careful study than has been given him, and the responsibility of society for his existence, and the pernicious methods commonly practiced in dealing with him, deserve a full examination. It is the damning reproach of our traditional penal system that it produces and perpetuates in the midst of our civilization a body of professional criminals, a large class of hopeless degenerates. But for the moment I can only refer to them in connection with the principle of the reformatory sentence. Under the old penal codes, such human brutes and vermin are confined for fixed terms, long or short, according to the offenses which happen to be legally traced to them, and are then set free to plague the community until detected in other crimes. Nothing but universal custom could blind us to the folly of such a practice. Let them be confined until fit for liberty. Not that any man must be declared irreclaimable. Set before everyone, however depraved, the hope, if he can embrace it, of reforming his own character and life, and thus opening his prison doors, but let none free until he can be trusted with freedom.

The principle of the reformatory sentence, then, is fully established. If imprisonment for crime is to be practiced, it is demonstrable that the only rational and useful form for it is under sentences terminable always and only by the prisoner's own recovery from that in him which has made it necessary. Why is this form of imprisonment not universal? Here we are confronted by all the forces of a narrow and timid conservatism. The argument for the complete reform of criminal legislation on this basis is not refuted. But against every practical step which is taken or proposed in this direction objections are heard. Perverse custom and traditional prejudice voice themselves in criticisms of detail, from minds incapable of grasping the system as a whole. It is necessary to meet such objections point by point, and by persistent reiteration of truths already familiar, to eradicate false habits of thought, and elevate the public mind to a scientific and consistent view of the duty of society to itself. I shall, therefore, state and examine very briefly, but as strongly and clearly as I can, each of the reasons

which have been avowed for resisting, denouncing or reversing the measures of reform in our criminal jurisprudence inspired by the principle of reformatory imprisonment.

A frequent protest is against the favor which this system shows to criminals. The Elmira Reformatory, itself the creation of Mr. Brockway and the scene of his imperishable achievement, at once in rescuing regiments of men from social and moral ruin, and in awakening to new life the intellect and the conscience of the world in its dealings with its neediest wards, is among existing institutions the nearest approach to a prison upon the reformatory plan. The legislation which established and maintains it, in the light of a true prison science, is but a halting and half-hearted compromise with antiquated and barbarous traditions. But in contrast with the older and usual methods, it represents the foremost practical wisdom of the age. It studies the physical, intellectual and moral defects which mark its inmates and which have brought them there, and seeks to remove these by enforcing cleanliness, education and habits of truth, self-control and industry. It teaches useful occupations, suggests motives to exertion, awakens the mind to a sense of social relations and duties, and holds ever before the prisoner the sweet prospect of self-earned freedom, and self-asserted manhood. "What?" cries the objector in horror; "shall the criminal be rewarded for his cruelty, his dishonesty, his lust, by opportunities and resources such as the free and deserving laborer cannot command? Are not the bath, the school, the workshop given to these outcasts a premium on crime?" The same outcry was made centuries ago, when the greatest of all reformers became known as the friend of sinners, and his reply is ours: "They that be whole need not a physician, but they that are sick." Though it be true that the fatted calf is killed for the prodigal, yet the complaint and sneer of the elder brother meet a divine reproof.

But the state is not instituted for the exercise of Christian philanthropy. Justice and rational expediency must guide it. By what right can it tax the poor to give to criminals privileges which the poor cannot command? If the state is bound to secure to every man what he deserves, this objection is conclusive. In that case, there are countless guilty wretches both in prisons and out of them, who may with strong probability be held to merit nothing better than the Newgate and Bridewell of John Howard a century ago, or the worst county jail of to-day, with their horrible filth and exposure to physical and moral contagion. But the most consistent champion of distributive justice towards crime will hardly plead for this form of it. Even he will admit that the maintenance of such abodes—

for outcasts is a flagrant breach of the duty of society to itself; that the community has no right to poison and corrupt the bodies and souls of those of whom it takes charge, whatever their deserts may be. This admission concedes, in principle, all that we ask. The state must not set up a blasphemous parody of the divine judgment seat, and assume to doom each man as he deserves. It is the agent of society to preserve civil order and protect persons and property; and, to do this, it must restrain the lawbreaker or reform him. The question for the statesman is, how can such restraint or reformation be secured most efficiently and most cheaply? Reformation, when possible, is vastly more profitable than restraint. To ascertain when it is possible, and in such cases to effect it, there is imperative need of all the apparatus of opportunity and privilege which has been described, though combined with the most rigid discipline.

In fact, this discipline makes the reformatory terrible to the convict, and the requirements of personal decency, persistent labor and regular study, so far from being enjoyed as luxuries, are perpetual afflictions to him, until his lawless habits and passions are overcome. It is notorious that criminals as a class dread the reformatory more than the worst of the antiquated prisons. Were their inclinations and comfort consulted, none of the costly privileges which are represented as boons to them would be provided. But the gate of restoration for the convict is in every sense strait, and his way is narrow. The keenest suffering that can be inflicted on the criminal is to break up his crust of stolid indifference, and open his soul to its degradation. The agony of humiliation felt by the man struggling to escape from his dreadful past and his baser self is a penalty more bitter than all physical privations or blows. Ask the objector whether any degree of poverty or neglect would tempt him to exchange his life for that of the convict whom he regards as petted and fondled in luxury, and if he answers yes, tell him that the felon's cell is the place for him.

But of late years another style of protest is more common. Much is heard of the intolerable cruelty of our system. Even among those who suppose themselves to be enlightened advocates of reformatory methods, there are many who refuse to accept the principle as universal. No legislature has ever yet enacted the indeterminate sentence without qualification for all cases. Let a man be imprisoned for a minor offense, for which the old codes prescribed a term of six months or a year, might he not fail to earn his release, and so remain permanently in durance? Would not the possibility arise of such frightful injustice as confinement for life,

where the laws and the common judgment of mankind have awarded but a short imprisonment? This apprehension has led, in almost every statute authorizing a reformatory sentence, to a provision for the maximum term, fixed by the old retributory code; at the end of which the prisoner must be freed, however certain it be that he will plunge at once into crime. The charge of cruelty justly lies, not against the sentence which would restrain him, but against that which would dismiss him to his ruin and to the damage of mankind. The criticism is founded on the false notion that his confinement is a punishment for his offense. Unless the conception of penalty and the thought of any relation or proportion between it and the crime is utterly abandoned, no right thinking on the subject is possible. As long as a man cannot be at large with safety to himself and others, he must be restrained. This is the dictate of mercy itself, and the particular act which has first disclosed to the community his character and its danger, has no bearing whatever upon the question. It is the interests of society and of the convict for the future, and not their memories of the past, which are to be conserved.

The stronghold of the opposition to rational imprisonment, however, is found in a third question. How can the indeterminate sentence be made determinate? Who can administer it aright? Where is the wisdom, the knowledge of hearts, the power to read character, the insight into motive, sincerity, strength of will, the eye to pierce all disguises, to detect hypocrisy, to recognize manliness, to distinguish conscience and honest purpose from pretense and cunning? Who is equal to these things, and what mere man will dare to assume the dread responsibility, and upon his own judgment of his fellow's nature decide his doom? I confess that the decision when to terminate the indeterminate sentence, in each individual case, is one of the most difficult which can be imposed on the human mind. To make it always without error is not in the power of any man or body of men. The reformatory method with criminals will never be administered without errors, and such errors must work hardships. The felon of strong mind and deep cunning may impose on experienced keepers; the defective man of unbridled passions may impress them deeply with his moral worth during a crisis of repentance; while the really hopeful aspirant for manhood may stumble and fall countless times in his efforts; and thus the less worthy may often obtain the earliest release. The force of the objection must be admitted without reserve. It is a fearful necessity that is thrown upon the state to exercise such a prerogative through fallible agents.

But it cannot be too emphatically asserted that the objection is not to the indeterminate sentence as a method, but to every method of restraining criminals. If imprisonment must be practiced, somebody must be vested with the power to decide who shall be imprisoned and how long. Assuming the necessity of the restraint, human minds capable of error must assign and administer it. Observe, then, that the objection in question applies with a thousand fold more force to the traditional system of retribution than to the scientific system of reformation. If students of humanity trained in the work of searching the character, stimulating the better motives, and watching for the growth of responsibility and conscience, who are in daily, hourly intercourse with their wards for the sole purpose of preparing them to be free, may still be deceived in them, what shall we say of the judge, who sees the prisoner for an hour or a day at his bar, and whose knowledge of him is carefully limited to the single act of which he is accused? The more familiar we are with the practical work of penal jurisprudence, the more irresistibly shall we conclude that, while the difficulty of fair and effective administration will always be felt under any system of law, that difficulty amounts to utter impossibility under the current system of retribution; and is indefinitely diminished under the reformatory plan. Thus the objection so often urged against the indeterminate sentence and its corollaries, becomes, when candidly examined, an unanswerable plea for its adoption.

But while this is true without reserve, while the amount of hardship, of needless suffering, of unequal and oppressive restraint, inflicted on convicts by the caprice, ignorance and error of judicial tribunals, would be vastly reduced by the immediate and universal adoption of the general reformatory sentence, it remains true that the machinery for its proper administration hardly exists, and that the men fit to be entrusted with it are extremely rare. This machinery and these men have yet to be produced. In the moral and in the intellectual world, as in the physical, it is the demand which brings the supply. When the war for the Union began there was not in the United States a general who had shown his ability to command a modern army. The nation experimented with those who promised well, trained the best of them to their utmost capacity, and eliminated the failures, until it had a noble and effective military hierarchy, unequaled in the world. Twenty-five years ago there was not on earth a man who could construct a marine engine, a telephone, a boot-machine or a rifle which would to-day be fit for use; now there are hundreds of thousands. Let the officers of state in charge of prisons cease to have it for their aim to

keep the convicts in subjection and to terrorize them into a semblance of order during foredetermined periods; let them be selected for the one work of understanding these men and preparing them for freedom, and then trained day by day in the varied and absorbing duties which the work implies; and they will become as superior to their predecessors in effective influence for good and in discernment of genuine results, as the code of Christian brotherhood is superior in moral dignity to the barbarous code of revenge.

An appeal is sometimes made to technical limitations of constitutional law, in order to show that the indefinite sentence is impossible under our form of government. Without reviewing the opinion once given by the Supreme Court of Michigan against the constitutionality of the method, or the more recent decisions of the courts in six or seven other states affirming its constitutionality, it is enough now to say that the doubts long entertained on this question by a part of the legal profession have given way to a substantially unanimous conviction that there is no validity in the objection. The overwhelming weight of judicial opinion holds that the legislature may assign to offenses precise and unvarying penalties, or may leave to the courts full discretion to fix them, with or without specified limits; and with or without conditions; that the pardoning power, even if constitutionally vested in the chief executive alone, is in no respect qualified or impaired by authorizing other officers to ascertain when any conditions thus imposed are fulfilled; that in short such determinations and the consequent release of the convict, are the execution of such a sentence and not an infringement of it. These principles are now so fully established that the rather technical quibbling which has occasionally been heard against them would require no mention, but for the momentous fact, which must not be concealed or evaded, that the savage theory of retribution has for generations controlled and shaped, not only the thoughts of men in relation to crime, but our systems of penal law and in some degree our written constitutions themselves, and long before the reconstruction of criminal jurisprudence on true principles can be completed, the reform will come into severe conflict with the forces of time-honored prejudice and narrow conservatism entrenched in these strongholds. Let me frankly say, then, that while the timid beginnings of legislation in the direction of science and humanity which have been obtained in eight or ten states of the Union, providing for partial and imperfect experiments in reformatory imprisonment, have in no case gone further than our constitutions permit, or than the body of intelligent public opinion will sanction, yet these are but the beginnings of a revolution

which is destined radically to change men's habits of thought concerning crime, and the attitude of society towards criminals, to rewrite from end to end every penal code in Christendom, and to modify and ennoble the fundamental law of every state.

The objections which have been discussed are of course presented by different minds in widely varied aspects and language, but I have tried to exhibit with perfect candor the full strength of each of them, and believe the answer given to each to be in principle conclusive. The result of the whole discussion is that prisons have no use in the social economy, except for the single purpose of confining men unfit for freedom; that convicts can never be rightfully imprisoned except upon proof that it is unsafe for themselves and for society to leave them free, and when confined can never be rightfully released until they show themselves fit for membership in a free community. The laws of nature and of humanity in their universality are terrible to our weakness and narrowness. The most progressive spirit of reform hobbles lamely after their majestic sweep.

In the light of this clear and demonstrated principle all that prison science has accomplished in the last generation towards the construction of a rational jurisprudence of crime is indeed but little. Nor can it be more than a beginning, more than a timid, halting and inconsistent compromise with the dreadful past of prison history, until public opinion rises to a broad appreciation of the problem, and, with the full courage of its convictions, demands their incorporation into the law of the land. We have beaten about and about the question, handling fragments of it, with timid apprehension lest we are going too far in telling bits of the truth, and never yet daring to defy the savage spirit of retribution in every form and in every application. To illustrate this, let me remind you of the weak and inconsistent questioning heard to this day among avowed advocates of reform, whether the reformatory sentence is practicable for misdemeanants. What is the difficulty? Is it not simply in the doubt whether they have done anything which deserves a confinement long enough to change and establish character? But what is this, but to fall back in our reasoning upon the discarded, absurd and impossible standard of desert? That is, to abandon our principles entirely, and to reforge the fetters of our minds which we have broken? To the sound social thinker there are no degrees in crime, there are only grades of character. To classify men by the individual acts proved against them as misdemeanants and felons, and deal with them on radically different methods, is but to make of the state a great engine, first, for turn-

ing misdemeanants into felons, and then for struggling to undo its work. For every student of our penal administration knows well that the criminal class is, generation after generation, the continual product of our social system, and that the most potent agency in its production is our method of dealing with what are called petty offenses, with our apparatus of county jails, police courts and short sentences. Unless this be swept away, we are making more mischief than our best reformatories can cure. We see that the reformatory sentence is the only hopeful treatment of the felon; but there is something nobler and more useful than the most perfect measures for the reformation of ten felons; it is the measure which shall prevent one man from becoming a felon.

This thought leads at once to the larger aspects of our subject. The fundamental principle on which the indefinite sentence rests, the corner stone of the fabric of rational jurisprudence, is that no man should be imprisoned if it is safe for himself and for society that he be free. Not merely is freedom a natural and universal right, the privation of which requires an extreme justification, no less than necessity, but it is always true that imprisonment, next to death, is the last, unworthiest use for manhood. Prison life is unnatural, at its best. Man is a social creature. Confinement tends to lower his consciousness of dignity and responsibility, to weaken the motives which govern his relations to his race, to impair the foundations of character and unfit him for independent life. To consign a man to prison is commonly to enroll him in the criminal class. This tendency is enforced and made irresistible by the conditions, discipline and associations of our common jails. When for these are substituted the best methods of reformatory training, experience shows that the evil influences of imprisonment may be largely mitigated, and that large numbers of inmates have a purgatory instead of hell. But as long as men are born for freedom and for social life, the most perfect prison on earth will be but a pest-house furnished with the best appliances to combat and cure in the individual the destructive plague which itself cherishes and perpetuates in the multitude.

With all the solemnity and emphasis of which I am capable, I utter the profound conviction, after twenty years of constant study of our prison population, that more than nine-tenths of them ought never to have been confined. They are there in reality because a careless, indifferent, impatient community has not known what else to do with them, and has found it convenient thus to put them out of its sight. For the moment they and we are safe, and we can forget them in our buying and selling, in our golf and tennis. But

each devil thus cast out soon comes back to us, with seven other devils worse than himself, and a recruit is made for the army of enemies of mankind. The highest reform of the criminal law is in finding other methods of dealing with offenders. In all but extreme cases of depravity, what is needed with the youth beginning a lawless career, is that the social motives in him be awakened and strengthened, that the habit of foresight, the sense of responsibility, the regard for the esteem of his fellows, the sympathy with mankind, be aroused to constant action. It is in the social life of the community that this work can properly be done. To learn to swim without touching the water is easy and natural, compared with learning to live as a member of a free community while immured in prison walls.

Partial and incipient expressions of this principle are the custom of suspending sentence, now authorized by many states, the probation law of Massachusetts, and above all the deep stirrings of mind and conscience among students of criminal science everywhere, all looking to the limiting of the practice of imprisonment within bounds far narrower than any of us have as yet dared to define. As an embryo civilization grows towards its birth, the time will surely come when the moral mutilations of fixed terms of imprisonment will seem as barbarous and antiquated as the ear-lobbing, nose-slitting and hand-amputations of a century ago. The nature which shows an inclination to lawlessness will be studied and thoughtfully, kindly, patiently brought under social and moral influences such as a true human brotherhood can exert; only the obstinately rebellious or dangerous characters will be confined, and then moulded, as far as possible, into harmony with society; while the irreclaimable will be permanently secluded from all opportunity to work mischief to others or to reproduce their kind. The extinction of the criminal class and the ultimate abolition of prisons are the ideals to be kept in view; just as the elimination of disease must be the perpetual aim of medical science.

I am painfully conscious that in this hasty outline of a great social truth which is but beginning a revolution in the dark places of earth, so long full of the habitations of cruelty, I have failed even to suggest its vast scope, the infinite detail of the prospect it opens, and the multiplied beneficence of its promise for humanity. It is as if one should attempt, with black crayon, under dim light, to sketch the rising sun. I know also how a brief essay, the abstract of a discussion which would fill many volumes, takes an unseemly air of dogmatism, and a tone abrupt, aggressive and uncompromising. Still worse, the clash with thoughts and habits rooted for

generations in the minds, practices and laws of every nation, provokes the scorn with which custom and experience always face bare, unvarnished declarations of novel principles. "These be dreams and visions," cries worldly wisdom; "fine theories without a practical meaning; but while human nature remains, anger and greed will burst into crime, and crime will demand repression and punishment."

This clamor against ideas, principles and demonstrable truths, in the name of practical intelligence, is the perpetual brake upon the wheels of progress; and requires me to add, once for all, that there is no longer anything merely speculative or experimental in the methods we advocate, but they have already vindicated their value to the utmost extent of sanguine hope, wherever even tentatively and timidly applied. There are thousands of useful citizens among us who have been rescued from criminal life by their reformatory influences; and each of these conclusive proofs of their power is accessible to the sincere inquirer. The statistical records of half a score of improved prisons, after every allowance for their imperfection, establish the general fact, that the great majority of inmates who earn an honorable discharge from them are as sure to do well in after life as a greater majority of those released after fixed terms of confinement, under the traditional system, are sure to return to crime. Above all, the unanimous testimony of every governor and warden who has devoted himself to the work of saving men by these methods, is that even the condemned felon has in him, more often than not, the making of a law-abiding man and citizen, if only the state will seek to raise him, instead of crushing him. In short, the world of criminal jurisprudence is already astir; less with the general principles than with the accomplished facts of reformatory discipline. He whose mind is open to these facts will not dare denounce as mere theory the promise of science and the laws of human nature.

CHARLTON T. LEWIS.