

## **The criminal and the community / by James Devon.**

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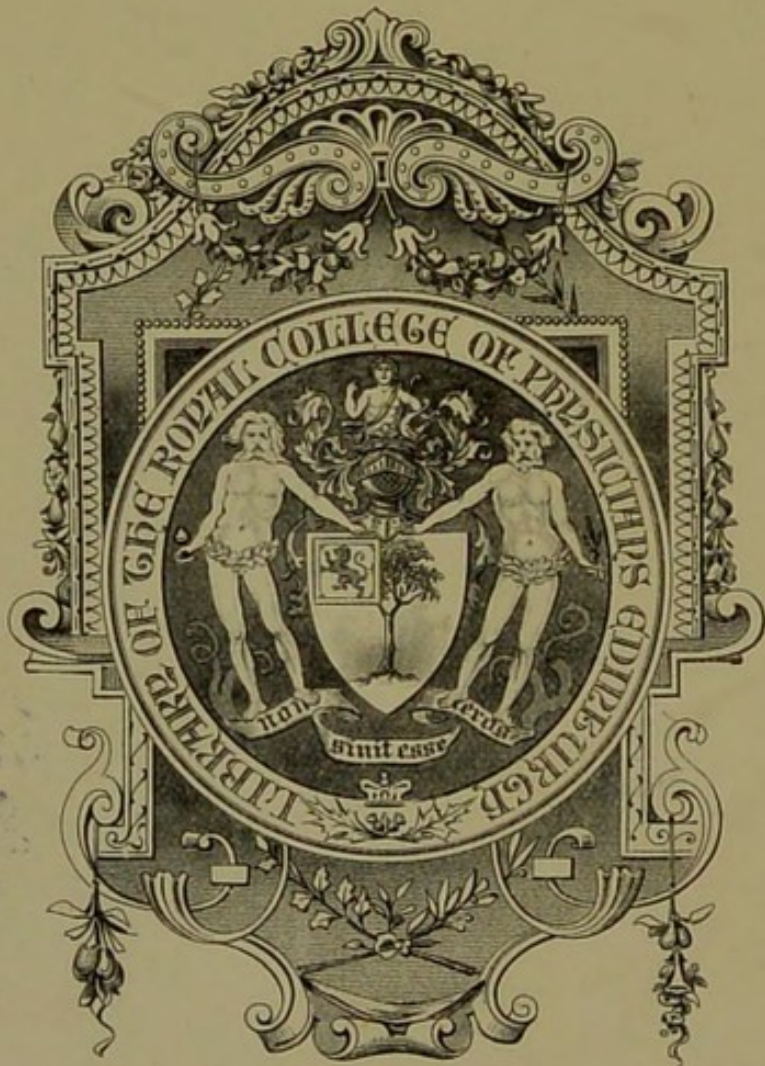
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THE CRIMINAL &  
THE COMMUNITY





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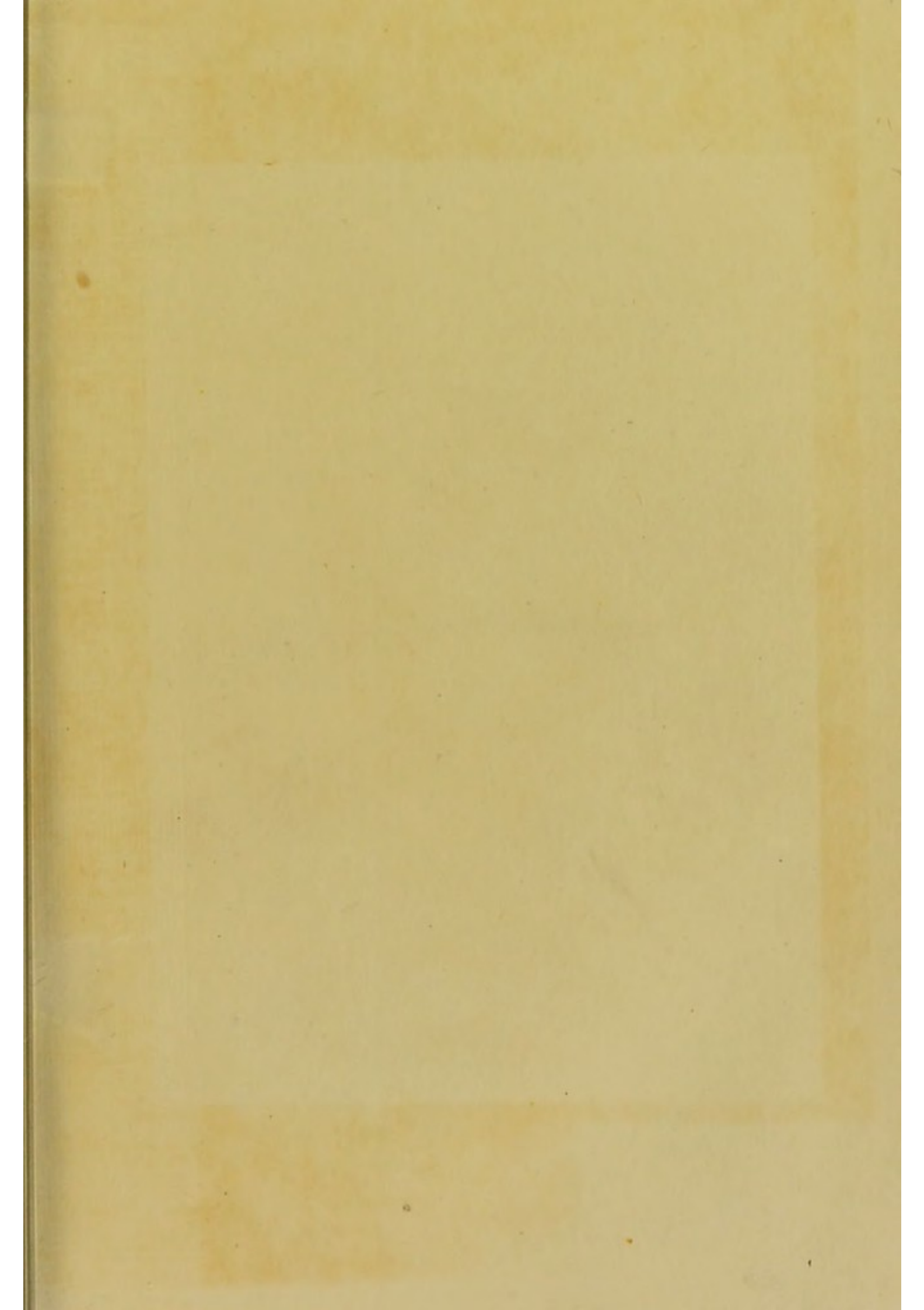
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THE CRIMINAL &  
THE COMMUNITY



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THE CRIMINAL &  
THE COMMUNITY  
:: BY JAMES DEVON ::  
MEDICAL OFFICER OF H.M.  
PRISON AT GLASGOW WITH  
AN INTRODUCTION BY  
PROF. A. F. MURISON, LL.D.

“GREAT MEN ARE NOT ALWAYS WISE :  
NEITHER DO THE AGED UNDERSTAND  
JUDGMENT.

THEREFORE I SAID, HEARKEN UNTO ME ;  
I ALSO WILL SHEW MINE OPINION.”

*Job xxxii. 10, 11.*

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W. M. BRENDON AND SON, LTD., PRINTERS, PLYMOUTH

TO  
MATTHEW G. KELSO  
AND  
SAMUEL GIBSON  
FRIENDS INDEED





## INTRODUCTION

THE importance of the subjects handled in this volume requires no demonstration. Already, and for long, the treatment of them has naturally engaged the sympathetic study of philanthropists, and more recently it has attracted the earnest attention of scientific inquirers. Hitherto, however, the results have been far from satisfactory ; and there is ample room for further discussion, especially from the standpoint of a thoroughly practical man with large experience both of criminals and of the social conditions that breed them.

Nowadays there is a growing sense of social interdependence ; there is a more general and a more definitely realized aim to elevate the condition of the less fortunate of our fellow-citizens ; there are express efforts of scientific investigators to discover a firm basis for practical reforms ; and practical reforms are urgent. Such tendencies of thought and feeling may be expected to go far to ensure a warm welcome to this volume.

Dr. Devon's book is executed on a breadth of scale never before attempted. It has three distinct parts : The Criminal ; Common Factors in the Causation of Crime ; The Treatment of the Criminal. His ex-



position is perfectly clear ; he sees precisely, and he states directly, simply, and definitely what he sees and what he thinks about it, very frequently driving home a point with epigrammatic force. If he throws overboard unceremoniously what he regards as mere lumber accumulated by the industry of speculation divorced from experience ; if he betrays some impatience with existing theories and systems ; if he advances his own views with confidence—the handling is at any rate piquant, and brings the matter promptly to a head.

We are supposed to have travelled far from the mediæval brutality of prison life, but have the changes not been superficial rather than deep ? Setting aside the catalogue of minor regulations and regarding the broad spirit of prison life, one cannot but recognize that the conditions still prevailing have much in common with the past. If we look for the really essential changes during a hundred years, we find just these : (1) a surface cleanliness of apparent perfection ; (2) conversation, prison visits, and arrangements tending towards a decent sociability between prisoners and prisoners and between prisoners and the public reduced and rendered difficult by multitudinous bye-laws. On the one hand, a cleanliness obtainable only by irritating industry disproportionate to its proper value ; on the other hand, a reduction of such facilities as are most likely to prevent a prisoner from degenerating to a social alien, an automatic machine, or a lunatic.



The after-effects of a long sojourn in prison are not readily realizable: it would require a very lively imagination to picture the life and its inherent possibilities. The fact that some prisoners do manage to get through their existence without falling into despair may be taken rather as a tribute to the chances of exception confounding rule than as a proof of conversion to virtue through punishment. It is too much to expect that an ordinary man that has been incarcerated for a period of seven, or five, or even three years, can become, on his liberation, once more a "respectable" member of society. His spirit has been cowed; his self-respect has been annihilated; he has been disqualified for reabsorption in the community; he has been prepared to gravitate once more towards crime and prison.

Another unfortunate aspect is the position of the prison warder. Apart from the care of those under him, he is subject to so much personal discipline—is so much the slave of "Rules"—that his life often becomes little superior to that of his charges. In point of social origin or of intellectual attainments he is not inferior to the ordinary policeman; but, while the policeman is taught by society, the warder spends most of his time in an atmosphere of degradation, fatal both to character and to intellect.

We are pretty well agreed that consideration and sympathy should be extended to the first offender, except in case of sheer brutality—and, as Dr. Devon points out, even a man that commits an act of brutality



is not necessarily a brute—for the first offender is usually the victim of “accidental misconduct.” In the case of the habitual offender, who returns to prison time after time for various transgressions, it would seem judicious to keep him permanently from actual freedom, but to treat him more as a diseased and positively dangerous man than as a noxious animal. At any rate, first offenders should not be herded together with case-hardened criminals.

Dr. Devon argues stoutly for the liberation of prisoners when responsible citizens come forward to undertake for necessary periods the guardianship and care of them. On this point it is important to note his precise position: it is not for a moment to be thought that he advocates any reckless liberation of scoundrels upon society. Let us see his actual words: “Unconditional liberation has ended in disaster to all concerned. Conditional liberation can only be expected to produce good results if the conditions are reasonable. . . . A prison ought merely to be a place of detention in which offenders are placed till some proper provision is made for their supervision and means of livelihood in the community. . . . The prison in which they would be placed would not be a reformatory institution where all sorts of futile experiments would be made, but simply a place of detention in which they would be required each to attend on himself until he had made up his mind to accept the greater degree of liberty implied in life outside. The door of his cell would be opened to let



him out when he had reached this conclusion ; but it would not be opened to let him out, as at present, to play a game of hare and hounds with the police." The argument hinges on the conditions.

Side by side with this, the State might well note the advantage of pursuing the scheme of letting first offenders out on probation ; giving them guidance and help in well-doing, and impressing upon them the inevitable consequence of restraint in case of violation of the law. In this way the transgressor—unless he be of the stuff of which arrant evildoers are made—seems more likely to feel repentance instead of remorse. He is shown clearly the power and the certainty of the law ; and at the same time he avoids the stain a prison life must inevitably have left, even though the imprisonment had been of a comparatively short duration.

Dr. Devon expounds, with irresistible logic, an argument in favour of a proper training of the class most in need of it. It must not be forgotten that ignorance cannot be expected to reason, and that poverty is heavily handicapped. Many offenders do evil simply because they have never known good. To punish these with blind and brutish vehemence is only a little less callous than ill-treatment of mental derelicts and little children. The principal aims of a prison system are presumably to punish offenders and to induce them not to offend again. In neither case can the present system be regarded as successful : it provides neither a proper punishment nor an effective



deterrent. That the influence is brutalising cannot be ignored: the savage become bestial, the refined become tragically shamed outcasts.

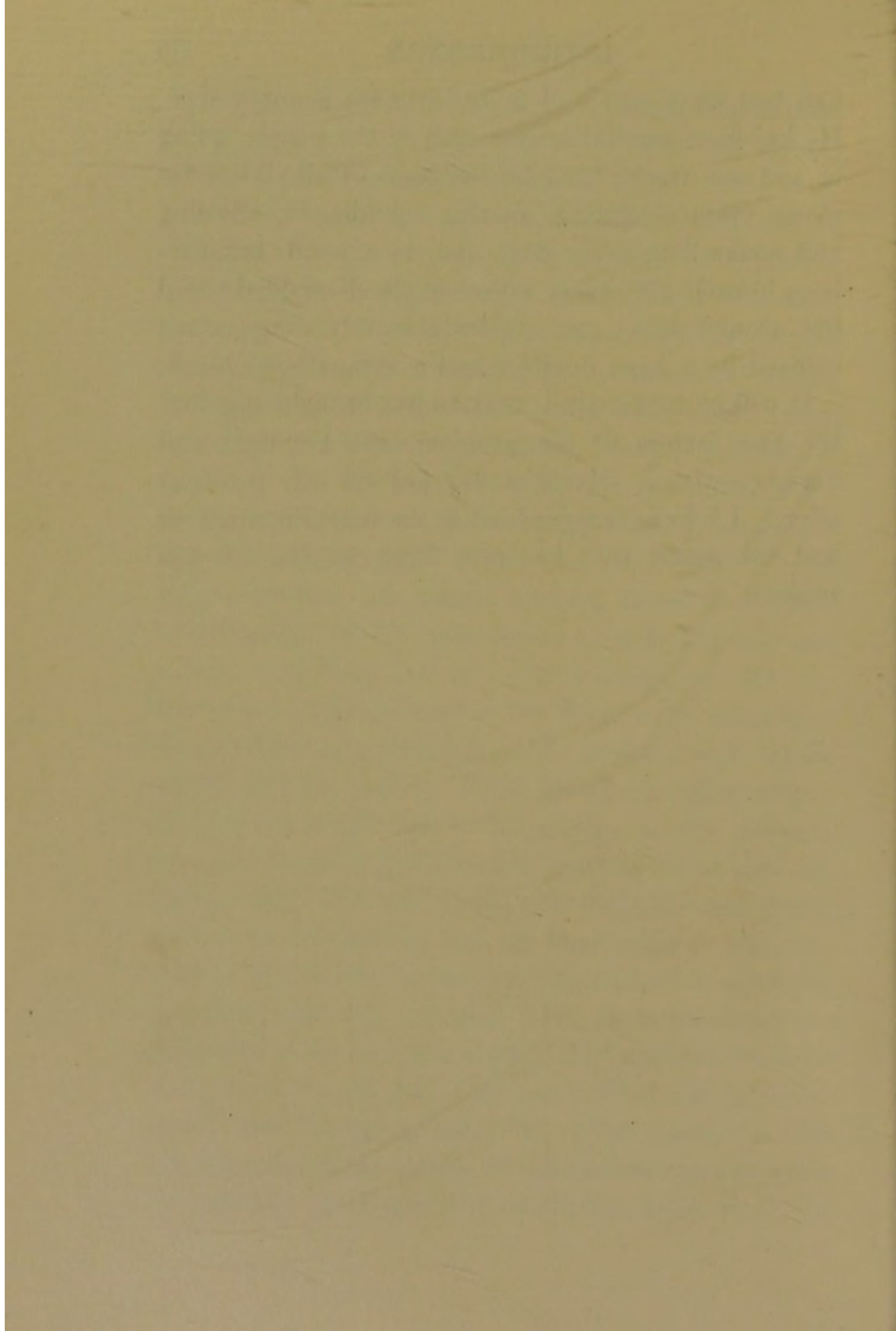
It is not to be anticipated that Dr. Devon will at all points and at once conciliate agreement. Probably he is the last man to expect it. Perhaps it is even undesirable that his views should be accepted without keen discussion. But Dr. Devon is a seasoned warrior, well accustomed to fight his own battles; and no man is readier to acknowledge frankly a sound criticism.

Dr. Devon begins and ends on the same note: absolute necessity for the "recognition of social conditions as they exist." Yes, "as they exist"; and not otherwise. His official position as medical officer of a large prison for more than half a generation, and a long experience as one of the examiners for the Crown for criminal cases in the West of Scotland, give him a right to a hearing on the medical and official aspects of the subject. There have been other writers that could claim official knowledge of the subject, but Dr. Devon's qualifications on the social side are exceptional. He was helping to earn his own living before he was eleven, and his knowledge of the conditions of life among the working class has not been acquired from the outside. He had a practical acquaintanceship with the work of the unskilled labourer and of the artisan before he began the study of medicine; and his professional life, spent mainly in the poorhouse and the prison, has given him opportunities for outside observation of conditions with which he



had had an earlier and more intimate acquaintance. He has been emphatically a man of the people, going in and out among his fellow-citizens of all classes for many years—lecturing, sharing confidences, advising and counselling every day, and, in a word, familiarising himself with every aspect of the diversified social life around him ; an incalculable advantage when utilized by a keen intellect and a sympathetic heart.

It will be found, then, that he has brought together the two factors of the problem—the Criminal and Society—with a solvent power beyond any previous effort. I believe that his book is the most illuminating and the wisest that has ever been written on the subject.





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PART I

THE STUDY OF THE CRIMINAL

THE STATE OF NEW YORK  
IN SENATE  
January 1, 1907.

# THE CRIMINAL & THE COMMUNITY

## CHAPTER I

### THE CRIMINAL AND THE CRIMINOLOGISTS

Classification of criminals—The treatment of the criminal not a medical but a social question—Technical differences between crimes and offences—Changes in the law—Vice and crime—The beginner in crime—Common characters of the “criminal class”—Atrocious crimes exceptional—So-called scientific studies of the criminal—How figures mislead—Composite photographs and averages—Estimate of character from physical examination—Causal relationship to crime of these characters.

**P**EOPLE were never more anxious to reform their neighbours than they are in our day. Everyone admits the widespread existence of misery, degradation, and destitution; and many seem to think that the presence of these evils is a modern phenomenon. Any man who has reached middle age and who has lived and worked among the masses of the people knows better. The evils are not new, but their widespread recognition is.

For ages the few have been the governors of the many, and the governed have neither had the means nor the ability to communicate with their rulers and with one another. In our day the ends of the earth have been brought together by the invention of the



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engineer, and the schoolmaster has been abroad among the people. The writer reaches a larger contemporary audience, and the message of the speaker is carried over a greater area than was ever before possible. Whether this has been wholly an advantage may be questioned ; but there can be no doubt that things that were hidden have been made manifest, and one result has been that laws and institutions which our fathers accepted have been placed on their trial.

Our system of dealing with criminals has not escaped criticism and has not borne it well. Like all systems, it is based largely on the assumption that men are, or ought to be, of one pattern. It is charged with failing to reform those who come under its sway ; but there is nothing to show that it was designed for their reformation.

Men are brought under it as a punishment ; and their acts, not their personality, are the cause of their imprisonment.

Experience has shown that the military man who applies impartially a set of rules to those who come under him has not been a success when placed in charge of an institution for dealing with offenders. It is not that he is less human than others, but that he is more rigid. Differences among those placed in his charge have always been recognised ; for instance, they could not all be treated as though they were the same height, nor could it be assumed that it was possible to secure uniformity amongst them in this respect ; but only the most obvious differences were regarded. Even elementary classifications could not be left to the man whose duty it was to administer rules, and so the doctor's aid was obtained in order to sort out those who were physically unfit to do any but light work ;



those to whom the diet was unsuited ; and those who required to have special privileges granted them lest the system killed them. It is sometimes much easier to call in the doctor than to get rid of him ; and largely on account of his work it has been shown that all classifications hitherto made have been inadequate. In the name of science he demands still further classifications.

Men can only be placed in classes because of certain qualities they have in common. Every classification must neglect individual differences ; and as it is these that mark men off one from another, any system or method of dealing with men will fail in so far as they are left out of account. The treatment of the criminal is not a medical question. It is a social question.

A medical training is of more use to a man who is to study the subject than a military training would be. It is important to be able to form a rational opinion on the physical and mental capacity of a man ; to know whether he suffers from any disease which impairs his faculties and to be able to direct treatment to the cure of that disease ; but a considerable degree of knowledge regarding these things may coexist with an amazing amount of ignorance regarding the social conditions under which the person examined has been brought up and formed. Give the medical man head and, so far as he is merely a medical man, he will be a more expensive nuisance than the military administrator.

A great deal has been written about the study of the criminal, but any such study is defective and can only be misleading in so far as it is not a study of offenders in relation to their circumstances. " Criminal " is as loose a term as " tradesman." It



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may mean anything, but so far as any real study is concerned it usually means nothing of any importance except to the printing and allied trades. When the character of the prisoner is estimated by men whose writings show no knowledge of his outside life, and is confined mainly to an enumeration of the selected physical, and imagined mental, characters of men while in prison, no study of the subject has been made that is worth any consideration, save for the purpose of formulating a theory without taking the trouble of ascertaining the important facts.

The study of the criminal has mainly been based on observation and examination of persons in prison ; but in prison the criminal is not himself. He whose obedience the law could not command, who kicked against restraint, is now compelled to direct all his acts under authority. His life has been arranged for him, and he might as well run his head against the wall as refuse to obey. Everything is done with regularity and quietness, and the monotony of it all oppresses him. His inclinations are not consulted ; his anger not regarded, except it transgress the rules. Outside he may have a reputation for wit and sociability ; in prison he has no encouragement to show these qualities. Very likely he will talk freely to any official person who is of an enquiring turn of mind ; he may be glad to have the chance ; but he is on his guard, and will not communicate any information that may get his friends into trouble and himself into bad repute among them, unless he is going to gain a good deal by it ; and not always even then. He learns to take advantage of every opening that offers any chance of increased comfort to himself, and he may readily make a general confession of sin and promise of amendment if thereby he can gain



sympathy and obtain privileges. It is not surprising that he should behave in this manner—the principle of making friends with the mammon of unrighteousness is not unknown outside prison—but it is strange that people who might be supposed to know the conditions in which he is placed should talk as though the criminal were usually a stupid kind of person.

Any person who offends against the penal laws of the community in which he lives may be sent to prison ; whether he be called an offender or a criminal will depend on consideration of points that are technical. Generally speaking, persons convicted of offences against the person or against property are classed as criminals, while those who have transgressed against public order—as in breaches of the peace, etc.—are classed as offenders. “An Act for the more effectual Prevention of Crime” (34 & 35 Victoria, cap. 112, sec. 20) defines the word “Crime” to mean “in Scotland any of the Pleas of the Crown, any theft, which in respect of any aggravation, or of the amount in value of the money, goods, or things stolen may be punished with penal servitude, any forgery, and any uttering base coin, or the possession of such coin with intent to utter the same.” The Pleas of the Crown are murder, robbery, rape, and wilful fire-raising. Those who have been convicted of crime as defined by the section quoted would properly be called criminals, but it is obvious that the name is applied and is applicable to many who do not fall under the definition. In practice the treatment of prisoners who have been convicted of offences is the same as that of those who have been convicted of crimes, when the sentence is one of imprisonment. The distinction between them is a technical one. If he is to be judged by the act of which he has been



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found guilty, the same person may at one time be called a criminal and at another time an offender.

As a matter of fact, it is very difficult to draw the line between crimes and offences ; and it is not uncommon to find that a man who has committed a heinous crime is not so wicked a character as another who has never been guilty of more than a petty offence.

The largest number of persons in prison have been convicted of minor transgressions and have been dealt with in the police courts. Many of these offences do not differ in character from those which engage the attention of the higher courts. Their gravity is estimated either by the result of the act, or the bad record of the person committing it, or both factors together. Thus if in the course of a quarrel one person should strike another and bleed his face, the police magistrate will assess the damage done to society ; but if the blow break the injured person's nose, the case will pass to the sheriff. If a man in a drunken " spree " lift a pair of boots from a shop-door, the bailie will probably deal with him ; but if, drunk or sober, he has been in the habit of taking other people's property, he may be sent to a higher court.

The law differs in the same country at different times. It is the minimum standard of conduct to which all members of the community are required to conform, and, as public opinion changes, it undergoes alteration. Men who in one generation have been executed as criminals have been honoured as martyrs in the next, while acts which at one time have been regarded as meritorious have at another time been severely punished. At no time will an honourable man do all that the law permits him to do, for his standard of conduct is higher than, and in advance of,



the law. But a man may live a thoroughly vicious life ; he may lie, act dishonestly, be cruel and vindictive—in short, break any or all of the ten commandments—and yet keep within the law.

The law differs in different parts of the same country at the same time, and a man may find himself brought under its operation in one district for doing something which is permissible in another. This is a result of the special powers given to corporations, or is due to the adoption by one local authority of permissive legislation which a neighbouring authority has not adopted. It may be very puzzling to a stranger, but the principle of allowing the more enlightened districts freedom to improve their administration is at the back of it ; whether they could not find a better way of carrying out their purposes than by sending to prison those who offend against them is another question altogether.

Even under similar laws the administration may be different. The more laws there are and the more rigid their administration, the greater will be the number of offenders.

All kinds of people break the law. In some social positions there is less opportunity for doing so than in others, but the conditions in which many are placed make it easier for them to offend against certain regulations than to conform to them.

All who are brought to prison for the first time are not first offenders. In some cases they have had a long and successful career before being apprehended, but even in these cases the physical and mental characteristics that would mark them off from others among whom they have been living are not apparent. A man's character and his characteristics are the result of interaction between outside influences and inherent



faculties. He acquires habits of body and of mind, and they leave their mark on him.

Vice and crime are not the same thing, nor have they any necessary relationship. Though generally the result of a vicious impulse or intention, there is hardly a crime in the calendar that might not be committed by a person acting from a higher moral standard than that set by the law. On the other hand, a vicious person may indulge in almost any vice and yet keep clear of the law; it all depends on how he does it. A dishonest person, if he puts his hand in the pocket of another and abstracts the contents, may be sent to prison; but if by appealing to the cupidity of his neighbours he can get them to put their hands in their own pockets and hand him over the proceeds in order that they may share in the El Dorado he has invented, he robs them just as effectively and is not sent to prison. He may become a pillar of society and a legislator.

When people are sent to prison for the first time all that has been determined is the fact that they have been guilty of breaking the law. There is no justification for assuming that their characters are, on the whole, worse than those of others. Some of them may have committed very wicked crimes; but, except in a few cases, a thorough investigation of all the attendant circumstances might modify any impressions derived from the trial. Even the commission of a fiendish act is not incompatible with a disposition that is usually and mainly good. We do not in practice assume that a man is a bad man because he has done a bad thing, any more than we credit him with being a good man because he has done a good thing. When the evil he has done has taken a criminal form we are as little entitled to judge the man by the act we condemn.



The fact that a person is in prison hinders any attempt to study him. The investigator begins with a prejudice against him because of the crime he has committed. Yet it is the most common thing to hear people who have known a prisoner intimately for years say that they could not have believed he would do the thing he has done. These people are quite as fit to judge character as those who are called scientific investigators, and they have better opportunities for doing so. They have not seen the weakness of their friends in the form it has taken. The investigator usually sees nothing else.

If those who come to prison for the first time were made the subject of examination, it would be found that they are principally remarkable for the absence of what the books call criminal characteristics.

Prisoners differ as much from one another as people who are law-abiding. No two are alike even among those who have committed similar offences ; and those who enter prison for the first time are not distinguishable in appearance from members of the same social class who have not transgressed the law. That they may develop certain common characteristics as a result of their way of living is true ; and there is a criminal class in the same sense as there is a professional class or an artisan class. The criminal is born and made just as the policeman is born and made. See him early in his career and it is impossible to tell what he is, but when he has undergone his training it may be expected to leave its mark on him which those who know may read with more or less success.

These common characters in the criminal have been laboriously sought for and recorded ; measurements have been made and tables compiled ; ratios have been calculated to decimals, and an appearance of scientific



precision has been given to the study of the criminal which has led many to the assumption that the writers must know more about the offender than they themselves do. Yet there are few men or women of mature years who have not known with some degree of intimacy at least one person who has sunk into the mire of vice and it may be of crime ; and one such case thoroughly known is a better basis for study of the subject than any amount of tables.

It may be of importance to compare the peculiarities of habitual offenders, but it is of greater use to learn how they acquired them. As for the habitual himself, he is not really the problem. His life is seldom a long one, and even if nothing other than is at present were done to, or for, him, he would die out in a generation. I do not say that the question of what we should do with our habituals is not important, but of much more importance is the devising of means for preventing the wrongdoer from acquiring the habit and joining their ranks. A study of confirmed criminals may be interesting pathology, but it is the study of the beginner in crime that will prevent the formation of the criminal class, in so far as it affords means for enabling us to deal sanely with them.

When an atrocious crime is perpetrated there is intense public interest shown in the criminal. He is examined in a distorted mirror and his parts are magnified. The more extraordinary he is, the more monstrous he appears, the greater the sensation. Yet the ordinary men and the ordinary offences are at once the more common and the more important. Here and there a person may be born with such a crooked disposition that it is difficult to see how he could go straight ; just as occasionally one of great wisdom enters the world, or a child with more than the



usual number of heads or limbs ; but the occurrence is quite exceptional, and it is never profitable to generalise from it.

We have been reproached in this country with failure to make a scientific study of the criminal ; and the works of foreign writers have been translated for our example and emulation. They contain a certain amount of information, but its value is not apparent. The importance of a book is not to be measured by the difficulty of understanding it. Big and strange words may as easily mask an absence of useful knowledge as convey a fruitful idea, and the man who has anything of importance to say regarding his neighbour—even though that neighbour is a criminal—does not require a pseudo-scientific jargon in which to say it. The criminal is a man or a woman like the rest of us, and information about his head or his heels, while it may have a special value in relation to his case, should not be confounded with knowledge of himself. He is something more than a brain or a stomach.

Either the so-called criminal characters are the cause of the man's wrongdoing, the result of it, or have nothing to do with the matter. If they are the cause of the criminal act, how is it that they are admittedly present in others who are not criminals ? It would certainly simplify the work of the police if they knew that they could with any degree of safety look for the perpetrator of certain kinds of crime among men with heads of a given shape ; but anyone who glances at the illustrated papers will see for himself as many villainous-looking faces among notable people, even among able people, as he will find in a prison. Our forefathers had a rule that when two persons were charged with the same crime and there



was a doubt which of them was guilty, the uglier should be condemned. It is not stated whether the officials and governing classes were at that time chosen for their good looks. Fortunately the practice has long since lapsed.

Unless a peculiarity is shown to have a causal relationship to crime its mere existence proves nothing except the fact that it is there. That in some cases physical defects do cause those who suffer from them to make war on society, is undoubtedly the case; but it is very far indeed from being the rule.

There are many people who are prepared to regard a book as learned if it is sufficiently scrappy and contains figures arranged in a tabular form. Yet figures when they deal with other than very simple things are almost invariably misleading; and the more so as they have such an appearance of exactness. It is easy for any two people to count the number of men in a room and to agree as to the result; but ask them to say how many tall men, how many with black hair, how many blue-eyed, how many straight-nosed—and you will get a different result each time. The figures will be exact—they cannot be otherwise—but your knowledge will be the reverse. If this is apparent in such a simple matter as the recording of physical characters, how much more apparent it is when an attempt is made to classify and generalise on men. Most books admit that there are not sufficient data on which to base conclusions, and then proceed to suggest conclusions. The whole science of criminology is illustrated by the composite photographs published gravely as contributions; for a composite is a photograph of nobody at all. It is obtained by the superposition of photographs of different persons, and is itself different from any of them. It may represent them all as they



ought to be, but it does not represent any of them as he is. It is the criminal in the abstract—who does not exist. It conveys in itself a warning against averages, for it is a pictorial presentment of an average.

An average is the mean of different numbers. In dealing with masses of people—feeding them, for instance—by providing a certain average supply for each, all may be satisfied; but whenever the average is applied to individuals it is misapplied, and one finds he has too much, another that he has too little. Measure two men; one is 5 ft. 8 in., the other 5 ft. 4 in.; the average height of both is 5 ft. 6 in., which is the height of neither. So when we have averages of height, weight, etc., given in the case of criminals, we know that we have been told nothing about any of them. The other physical characters of criminals in prison have been noted without any attempt having been made to ascertain whether, and if so when and how, they were acquired, and we are invited to contemplate a number of twisted and bloated faces, many of which could easily be matched among the non-criminals. See these men and women before debauchery has left its mark on them and they are no uglier than some of us who are set over them.

As for the assessment of the mental characters of prisoners, the value of it will largely depend on the ability of the examiner to place himself in touch with them. Few people believe nowadays that by feeling the knobs on the outside of a man's head you can tell the faculties within, far less whether these faculties will be used for good or ill; and we are not likely to advance the study of the criminal by founding conclusions on the measurements of his head, facial angle, etc. The new phrenology differs from the old in respect that it changes its terms and insists on more exactness



of measurement. Like the old, it may be fairly successful in judging men after they have shown their qualities.

No one has yet discovered a reliable means of estimating the nature, quality, and amount of a man's mental powers from his appearance. We may learn what he says or does, but we can never be sure what he thinks. In practice we are all continually forming estimates of those we meet. Some judge by the clothes, some by the expression, most of us not knowing how. So far as our impressions are concerned, however we think they have been arrived at, we all make mistakes and have all to revise our opinions. The man who prides himself on his ability to read character is usually the man who makes the most mistakes ; his confidence misleads his judgment. Even the shrewdest are occasionally deceived after many and varied opportunities of arriving at a correct estimate of their friends or enemies, yet for his own purposes each man's judgment may be, in the main, satisfactory and no one troubles about his neighbour's methods ; but when they are erected into a science it is time to protest.

The size and shape of the head, its malformations and asymmetry, may be measured with a fair amount of success. This and more has been done with a view to the future identification of individuals ; but the theory underlying the practice of taking such measurements is that no two criminals are alike. The theory the criminologists seek to establish is that they are all very much alike. It is stated that so many men who have committed crimes have heads of a certain conformation, have peculiarities in the character of their skulls. If these physical deviations have a causal relation to their conduct, since the heads cannot be altered the criminals are therefore outwith reform. The Church-people, on the other hand, hold that all



wrongdoing springs from "the heart"—not meaning thereby the physical organ so called. You cannot give a man a new head free from the objectionable shape; but men have developed a new spirit, and from being bad have become good citizens without undergoing any physical alteration; so that after all it would appear that "The heart aye's, the part aye, That makes us right or wrong."



## CHAPTER II

### HEREDITY AND CRIME

Does heredity account for one quality more than another?—Impossibility of forecasting the conduct of others—Do criminals breed criminals?—The fit and the unfit—Unequal endowments—Ability and position—Inherited faculties and social pressure—Crime the result of wrongly directed powers—Original sin and heredity—Heredity behind everything.

**I**N the effort to assign a general cause for criminality an undue emphasis may easily be placed on any one factor. There are those who seem to think that heredity is the main cause, but they rarely attempt to define the content of the term. In a sense heredity is the cause of everything, but in that case it cannot be held to be the cause of one thing more than of another. Suppose a man becomes insane at the age of thirty and it is shown that a number of his relatives, direct and collateral, have also been insane. If heredity accounts for his insanity what will account for his sanity? Such a man under treatment may recover, but sane or insane his heredity is not altered. The fact is that we none of us know enough regarding the qualities of our ancestors to be justified in imputing our inheritance of any special tendency to any particular one of them, and every successive generation implies a mixing, if not a blending, of very complex and sometimes opposing qualities.

If a man knows anything about anybody in this



world surely it is about himself. His knowledge is incomplete, but it is more full and varied than his knowledge of any other body. He may be expected to know something about the qualities and faculties of his wife. Yet all he knows of himself and her, added to all he knows of the laws of heredity, does not enable him to forecast with any degree of accuracy the faculties and tendencies of his infant child, or to trace these back when they have developed.

In the case of criminals born and brought up in hotbeds of vice it is even more hopeless to trace back family history, because there is often in their case a grave uncertainty as to the personality of the male parent. To say that as wolves breed wolves criminals breed criminals is nonsense and mischievous nonsense. As canaries breed canaries do poets breed poets ?

Criminals are men and women who have gone wrong ; not necessarily because of the possession of certain powers which they have inherited, but because these powers have been used in a wrong direction. They come from all classes ; and there is nothing to show that if their children were taken from them early in life and brought up in favourable surroundings they would take to crime ; but there is an abundance of evidence on the other side.

There is a good deal of discussion nowadays regarding the fit and the unfit among us, and a tendency to forget that a classification of our fellow-citizens under one head or the other can only be made if we regard the terms as relative to the conditions under which they live. That very many prove their fitness to survive the continuous strain of economic pressure, can as little be questioned as that others sink under the ordeal. No one will deny that there is a good deal of unfitness shown by persons in a comfortable



position economically ; and if some of the Apostles of Fitness had any sense of humour they would hold their tongues and hide themselves, for neither intellectually nor physically do they show much claim to present an ideal standard.

Nobody denies that men are unequally endowed. Some have a powerful physique ; others have greater intellectual power. The usefulness of their endowment to themselves and to others will largely depend on the position in which they are placed. Put them to work unsuited for them, or place them in positions where their faculties are not allowed free play, and they may do very badly. The difficulty is to get the right man in the right place. When he is in the wrong place he may be a nuisance to himself and others ; but it does not follow that placed in another position he would not be a useful member of society.

An attempt has been made to show that certain faculties are inherited and transmitted in certain families ; but it is conveniently assumed that position is of no importance. Everybody knows that, in the professions chosen to illustrate the theory, promotion is not wholly dependent on ability. That a father and son have both been judges offers no presumption of special fitness on the part of the son. That high military rank has been held by several members of the same family need not prove any of them to be great soldiers ; that the government of the State is now in the hands of one family and now in the hands of another does not show anything more than that these families have been in a position to secure the offices. It would be a new and startling doctrine to assert that the man who is best fitted for a position always obtained it. Everybody knows that the main consideration in determining an appointment is whether



a man has influence enough to get it ; and that influence need not depend on his personal ability, but on his position in relation to those in whose gift the appointment lies. Granted equal ability in two men, let one of them start with family or social influence and the other with none, and there can be no doubt as to what will happen. That an able man will obtain influence in time is highly probable, but by the time he has gained recognition he is likely to be too old to benefit much by it. The stupid man who has a clever father has a better chance than the clever man whose father has shown no special ability.

It is a very difficult thing for any man to learn the history of his family. In the case of the eminent you get no two biographies that are alike. An enquiry would show that this is equally true in the case of those who are not eminent. A man may have one reputation inside his family circle and quite a different reputation outside. We are all influenced in our conduct towards others by our opinions regarding them. A man who has pride in his ancestry will show it in his actions. There may be nothing to be proud about, but that will not prevent him playing his part. On the other hand, if he believes he has been disgraced by something that has been done by some member of the family, his conduct is likely to suffer from the belief. I have seen a woman whose brother was executed for murder sink under the disgrace into a condition of recklessness verging on insanity ; and it is a matter of common observation that in some degree men have been broken in spirit by the shame brought upon them through the action of their relatives. It is impossible to discriminate between the part played by inherited tendencies and social pressure, in the production of certain acts.



Crime is not the result of inherited faculty, but of the direction in which that faculty is exercised. There are some families where the parents have been criminals and the sons have all done well ; while the daughters have followed in the footsteps of their parents. In these cases it is probable that the determining factor has been the influence of the mother. Her criminal acts and methods were more susceptible of imitation on the part of the daughters than on the part of the sons, and the girls, even though they had been willing to leave the house, would have had to face life outside under greater difficulties than the boys.

The practice of singling out heredity as the cause of certain things to the exclusion of others has no sanction in experience. Our forefathers recognised that all men showed imperfections. They saw that one man was given to envy ; another to lust ; another to covetousness ; another to wrath ; and so on through all the deadly sins. They attributed these defects to our heritage of Original Sin. The theologian has been displaced by the scientific man, and if heredity is a newer name for our ignorance it does not fit the facts any better.

We inherit all the faculties and powers which we possess, but what they are only the event shows. Nothing can be taken out of a man but what is in him, but there may be a good deal in him which is never taken out. We may develop certain faculties, but not unless they are first present ; and the stimulus that they obey at one period in our lives may fail at another. We may estimate the capabilities of a man who is dead from observation of what he has done, but we cannot say that he might not have done better or worse had his life been prolonged. In the case of great men this is recognised, and we have laments over



their early death and speculations as to what they might have done, or regrets that they lived too long for their fair fame. It is the same in the case of small men as of great.

Heredity is behind everything; not merely behind some things. If it explains a man's disease, in the same sense it must also explain his antecedent health. It cannot account for one part of his life more than another. Even those who attribute disease or misconduct to heredity seek to cure the diseased person and to correct his bad habits. Any success with which they meet is not obtained by altering his heredity, but by changing the conditions under which he has been living in such a way and to such an extent that he reacts favourably to the change. We are not warranted in saying of anybody that he is doomed by heredity to a life of vice or of crime. The conditions that suit one person may not be suitable to the healthy development of another, and the problem with regard to those who transgress our laws is to ascertain under what conditions they would behave best and place them there. Though their family history may be of the blackest; though their ancestors may have been vicious, it by no means follows that it is impossible for them to be otherwise. When a man has done wrong it does not help him to be informed that he cannot do better. He is often more than willing to transfer the blame to the shoulders of others. It is more profitable to teach and help him to do well than to encourage him to curse his grandfather.

There is only one way of finding out why people commit crimes and that is by making a patient enquiry in each case. The causes in many cases may be similar, but the part they play may be different.



## CHAPTER III

### INSANITY AND CRIME

Insanity and responsibility—Removal of the insane from prison—Crime resulting from insanity—Case of theft—Of embezzlement—Of fire-raising—Insanity and murder charges—The result of an act not a guide to the nature of the act—Observation of prisoners charged with certain offences—Insanity as a result of misconduct—Cases—The mentally defective—Cases.

**T**HERE seems to be a widespread opinion that all criminals and offenders are more or less insane, but those who hold it have nothing to say in support of their view save that they cannot understand how certain crimes could be committed by any sane person. This is to beg the whole question, which is, how many persons who are charged with committing offences are found on examination to be unsound mentally?

Insanity has never been satisfactorily defined, but it is a term which in the legal sense connotes irresponsibility. Yet if all insane persons had no sense of responsibility it is difficult to imagine how they could be suffered to live. Even in lunatic asylums the great majority of the inmates can be induced to behave in such a way as to make it unnecessary to tie them up. They have a very large amount of liberty conceded to them without serious inconvenience to their neighbours and greatly to their own advantage. If they simply did what any stray notion impelled them to do



this would not be possible. Their affliction frees them from responsibility to the law for their actions ; but in practice they have to show by their conduct that they can and will obey the rules of the institution in which they are placed before it is safe or reasonable to let them go freely about in it. The physician does not demand from them better conduct than their mental condition warrants him in expecting ; but they learn, in so far as they are capable of learning, that their own actions will determine the degree to which they will be free from interference, and that the necessary result of misconduct will be increased restraint. Only in so far as they show a sense of responsibility is it safe to allow them to be free from supervision. A person may suffer from such a degree of mental unsoundness as will free him from responsibility for his actions in the eyes of the law, and yet be able to conform to the rules laid down for the guidance of his life by an asylum superintendent.

A very small proportion of prisoners are persons of unsound mind, and in most cases the mental unsoundness is the result of their own misconduct. In Scotland there is no difficulty in freeing insane persons from prison. By section 6 of the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871, it is provided that "When in relation to any person confined in a local prison in terms of the Prisons (Scotland) Administration Act, 1860, it is certified on soul and conscience by two medical persons that they have visited and examined such prisoner, and that in their opinion he is insane, it shall be lawful for the sheriff, on summary application at the instance of the administrators of such Prison, by a warrant under his hand, to order such prisoner to be removed to a lunatic asylum." The matter practically rests with



the prison surgeon, for the prison commissioners on his report never raise any objection to the transfer of a convicted prisoner who is found to be insane. Yet the same persons return again and yet again.

The warrant for detention in an asylum expires with the period of the sentence of imprisonment, and the asylum authorities must obtain new certificates before they can continue to keep the patient. When the degree and kind of mental unsoundness is very marked there is no difficulty in getting the necessary documents; but when the patient has been benefited to the extent of being able to behave and speak no worse than many of his fellow-criminals, it is different. He is sent for examination to a man who is not acquainted with him. The doctor has to state facts observed by himself as a ground for certification; quite properly he is not permitted to ensure the detention of anybody on evidence that is second-hand. The patient is quiet and on his guard, and his examiner can make nothing of him. Accordingly he goes back to his haunts and his vices, impatient of restraint, and is soon in the hands of the police again. Clearly there is need of some modification in the law or its administration to permit of such persons being dealt with.

Insane offenders may be divided into two classes: those whose wrongdoing is the result of their insanity; and those who have been sound enough to begin with, but who have become insane, just as they have contracted physical diseases, as a result of vicious indulgence and its treatment. Of the first-named class there may be one in about a thousand admissions. The crimes charged are of all kinds and degrees of gravity, as the following examples will show:—

X 1.—A man is brought to prison for the first time



charged with a series of petty thefts committed while under the influence of drink. He shows signs of alcoholism, and is too dazed to give any account of himself. In a day or two the alcoholic symptoms have passed off and his general condition suggests enquiry. He has signs of mental disease which cannot now be confused with drink. It is found that, until a year before, he had been in business in an industrial town; that he had been a reputable citizen, quiet, peaceable, and abstemious in his habits; that he began to take to drink, and sold off his business, which realised several thousand pounds; and that he had since been lost to the knowledge of his friends. What happened in the interval I do not know. He was taken in charge by the police for stealing glasses from a public-house, weights from a shop-counter, and such-like things, which were certainly of no use to him and which he could not sell. The charge was dropped and he was sent to a lunatic asylum.

X 2.—A young man is imprisoned on a charge of fire-raising. He is brisk, talkative, and cheerful, and laughs at the charge as ridiculous. Beyond showing a high appreciation of his own qualities he does not do or say anything to attract attention, and as he is really "bright" his conceit only provokes a smile. He has no physical symptoms of brain disease, and it is not suggested on his behalf that he is mentally unsound. A decent workman who was interested in him called to say how well-behaved he had always been, and to ascertain what ought to be done by way of assisting his defence; and some things he said suggested the need for special enquiry. It was found that prisoner had always been energetic and bright at his work, and that he had good reason for boasting of his skill. His fellow-workers admitted that, though



they disapproved of his bounce. He had been a teetotaler all his life and was a prominent member of a militant temperance society. He was very industrious and thrifty. He married a quiet, reputable girl who shared his opinions and ideals. He had saved some money and he suddenly made up his mind to start in business for himself. His wife did not approve of his doing so, as she did not like the risk and was quite content to go on in their accustomed ways. He persisted, and she yielded the point, but only when she saw her opposition was causing domestic strife. He rented a small workshop and furnished it. He got as much work as he could undertake—not a great amount—but before he had time to see how his venture would prosper, he conceived the idea of removing to a larger house. His wife was unable to see how he could safely do this, as she did not think he had money sufficient to justify such a course. Her opposition only made him more insistent, and on one occasion he lost his temper so completely that she became alarmed. He threatened to kill her, and looked as though he meant it. When she spoke to him about this afterwards, he apologised and laughed it off; and as he had always been a most affectionate and dutiful husband she dropped the subject. Things went on as before till one day there was a fire in his workshop. It was not got under till some damage was done, and it might have resulted in serious loss of life and property, as there were dwelling-houses adjoining. It was quite obviously the work of an incendiary, and he was arrested on a charge of fire-raising, as he could give no satisfactory account of his movements. On closer investigation it became quite apparent that he was a person of unsound mind. Little things that had passed as peculiarities, receiving



only a passing comment, when dovetailed into the story as I have related it left no room for doubt. The charge was dropped, he was sent to an asylum, and there he died two years later from general paralysis of the insane.

In his case his fellow-workmen, seeing him from day to day, failed to observe more than a slight accentuation of the qualities they had been accustomed to see in him. He talked a lot about what he could do; he always did that. He offered to make certain articles for a man better than any other could; very likely he was able. He started business on an altogether inadequate capital; others have done the same thing. He wanted to set up in a higher style of living; he was always ambitious—and so on. Until he set fire to his workshop they had never known him do anything inconsistent with his character, and while they laughed at his boasting they did not doubt his sanity. It was the same with his wife. She distrusted his judgment but did not doubt his sanity. His sudden murderous threat she put down to his temper. His temper she attributed to his want of sleep; for she admitted that he got up at night, and worked or moved about. On one occasion, she confessed, he had proposed that he should cut her throat and his own. He was quite quiet at the time and she thought it an ugly kind of joke, as he woke her to make the proposal; but she explained it to herself on the ground of over-work and sleeplessness. Those who are coming most in contact with persons afflicted like this man are the last to see the significance of the changes taking place before them, because the transition is so gradual. This is true of people in all social classes.

X 3 was a professional man in a very good line of business. Late in life he was arrested on a charge



of embezzling large sums of money. When I saw him first he had a paralysis of the muscles of one hand, which was withered in consequence; and he could not articulate owing to paralysis of the muscles of the mechanism of speech. He put or answered questions in writing. Enquiry showed that for many years he had been much respected and trusted. He had amassed a considerable fortune, and had been upright and honest in his dealings with others. He lived in the country and kept up a large establishment. His business was one which dealt in large sums of money. Some years before his arrest he married for the second time, and there was trouble between his second wife and his family by her predecessor. He had always been an open-handed man, but latterly his public gifts had excited comment by their number and character. His mental condition, however, was never suspected by his family. They assumed his ability to afford anything he chose to buy. His wife left him as a result of his conduct to her and in doubt as to his sanity, but these doubts were not shared by his family. She said he had become capricious and sometimes cruel to her, and quite different from his ordinary self. He would sometimes bring in parcels of costly jewellery for which there was no need. In the end she became frightened to stay with him; but though she feared he might injure her, as he seemed to have taken a dislike to her, she never suspected that he was frittering away his substance. When the crash came it was found that he had within a short period thrown away tens of thousands of his own, and as much belonging to others who had trusted him. He had bought and sold property in a reckless way and without any authority to do so, his reputation enabling him to do things which in another would have been



questioned. He was sent to an asylum. In his case the paralysis from which he suffered, gradual as it was in its onset, had attracted attention to itself and had actually masked the mental condition which accompanied or followed it.

There are some crimes which in themselves shock us to such an extent that we find it difficult to believe that any sane man would commit them. In a book such as this I can only refer to certain sexual offences without discussing them, but even in these cases the crime need not infer insanity. We are no more justified in saying that a man is mad if he does a mad-like thing than in calling him wise if he does a wise-like thing. A man's criminal acts are only to be judged in relation to his other conduct if we would form a rational opinion as to his mental condition; and that again has to be considered in relation to the social condition in which he is placed before anything approaching a fair opinion as to its adequacy can be formed.

If a man's criminal act were to be taken as sufficient to infer his insanity there are certain crimes for which we should never have anybody tried. Every murderer would straightway be sent to a lunatic asylum on the plea that he must have been mad or he would not have done it; and yet that is precisely one of the most important points that have to be examined in the course of a trial for murder in Scotland.

Murder is practically the only crime for which the death sentence is passed. Scottish jurymen have shown a strong repugnance to be parties to the death of a criminal. They may favour capital punishment in theory, but, no matter how bad he may be, they shrink from handing a culprit over to the hangman; and they will seize any opportunity to escape from



doing so if it is given them. They may be told they have nothing to do with results; that their duty is to find a verdict on the evidence; but they might as well be told to pull the bolt. They know what will happen. They do not seem to believe that they are not responsible for the necessary consequence of their acts, and in spite of the assurance of the law the verdict is a worry to them. Few homicides are hanged in Scotland, and there are few verdicts of murder, mainly for this reason. If the death penalty were abolished—if it were even made only a possible penalty—brutal murders would have a chance of being called by that name and not by “Culpable Homicide.”

For a time it was almost a matter of routine to set up a defence of insanity in murder cases where the facts could not be seriously contested. Now in most assaults there is an element of accident. The assailant is in a state of rage and hits out wildly. The blow that will kill one man may only stun another. Blows inflicted on one part of the body may cause little more than inconvenience, but if the same amount of violence be applied to another part death may result. I have known cases where as a result of assault the victim seemed to have sustained injuries sufficient to kill him, even though he had the nine lives sometimes attributed to a cat, and yet he recovered—maimed and permanently unfitted to support himself. That was not murder; in some respects it was worse; but there was no attempt to prove the assailant insane. If death had ended the suffering of the victim there would have been a plea of insanity set up. The determining factor in the plea was thus the physical condition of the assailed, not the mental condition of the assailant.

In Glasgow special care is taken in all cases of



murder to enquire into the mental condition of the accused. From the time he is admitted to prison he is placed under observation with this purpose in view, and any evidence bearing on the subject is carefully examined. His conduct in prison may be perfectly sane, but if there is any reason to believe that, when at liberty, he showed signs of insanity, the medical officer personally makes an investigation and reports. The prisoner may be penniless, but he suffers no prejudice thereby, as the work is undertaken at the expense of the Crown ; and at the trial the necessary witnesses are usually produced on his behalf if the reports show that he is insane. This is true in other than murder cases to this extent, that the procurator fiscal informs the prison authorities of any allegation as to the prisoner's mental condition and asks for a report. He also puts before the judge any statement by the prison doctor as to the health of a prisoner mental or physical, even although the report may not have been asked for.

Insanity may be a result as well as a cause of misconduct. A life of alternate indulgence and repression tends to unsoundness of mind ; and I have seen men and women, who when first they fell into criminal courses were free from any suspicion of insanity, gradually degenerate and become insane. When the kind of life they lead is considered the wonder is that so many of them do not become mad.

X 4 was a girl of the labouring class. She was handsome and of a fine figure. Good-tempered and of an easy disposition, she was rather indolent ; and as she was not trained in any very strong regard for morality and had plenty of admirers, she soon gave up working and took to the less restricted life of the town. She got into the hands of the police and was sent to



prison, where her behaviour was beyond reproach. She did the work required of her and was always even-tempered and orderly. She took to drinking rather heavily, and during one imprisonment had a bad attack of delirium tremens, from which she recovered only to fall into a condition of dementia which remains and, though it has become less marked, leaves her unfit to take care of herself. Her insanity is the direct result of her excesses.

X 5 got into bad company and was encouraged rather than corrected by her mother, who found her profit in her daughter's misdeeds. She left her work but did not take heavily to drink, and by and by came to prison charged with theft. She contracted disease in the course of her misconduct and began to take fits. She gradually became worse, as she gave herself no chance of recovery and neglected treatment when at liberty. She was in prison for short periods during two years and finally became insane and died. When first I saw her she was free from any mental or physical infirmity. Her disease and death were the direct result of her way of living.

X 6 had always been a wild and uncontrollable lad. He entered the army and was soon found to be one of the bad bargains. He was ultimately discharged. He got into a lawless set in Glasgow and picked up a living, sometimes honestly, sometimes otherwise. He suffered imprisonment on several occasions and was always a troublesome man to deal with. Gradually he showed delusions of suspicion and had attacks of violence ; and finally he had to be dealt with as a criminal lunatic. In his case there was from the beginning a condition of mental instability, which showed itself in his restlessness and impatience of restraint. It unfitted him for a soldier's life, and the



discipline incident thereto was much more likely to aggravate than to remedy his condition. Having no friends capable of directing him, he flew to excesses and was punished for the crimes in which he took part. Than life in prison there could be nothing imagined that would be worse for him ; and the monotony of it and the quiet would tend to develop the delusions which afterwards dominated his mind, and influenced his conduct to such an extent that under their influence he committed assaults and proved himself to be a dangerous lunatic. His case is different from the last two in respect that the very means adopted to deal with his excesses were largely the cause of his final insanity.

Short of cases of certifiable insanity there are a number of prisoners who are mentally defective. The total is small, but the individuals command an amount of attention, and cause an amount of trouble to the public, out of all proportion to their numbers. In some cases the defect consists of delayed development ; the body and the passions have grown at a greater rate than the mental powers, but time and training would be likely to establish an equilibrium.

In other cases there seems to be something wanting in their mental outfit—they “have a want,” as it is put colloquially and expressively. Many of them are capable of behaving themselves when under the guidance of well-disposed persons ; and more may be found about religious meetings than in prison. They have come under the influence of the Churches and have benefited thereby, and it is largely because no such healthy influence has been obtained over those others that they are in prison. They are usually quite tractable and pay obedience to stronger-minded persons. When these are law-abiding they cause no



trouble, but when the influence is evil it is otherwise.

Mental powers that may be sufficient to enable a man to work and live in conformity with the law in one social position may be quite inadequate to enable him to support himself in another. There are men holding positions and discharging the duties required of them to the satisfaction of their employers, who would sink to a very low level if cast adrift. Any fixed standard of mental capacity is irrational, since it leaves out of account the conditions under which the person examined has to live. The question is : Is the person by reason of mental defect unable to bear the stress of life under the social conditions in which he is placed ? Is he fit to take care of himself and abstain from offending against the laws ?

Whatever may be the view of lawyers on the matter, no business man expects the same conduct from a boy as from a man ; nor will he trust a young man to the same extent as an old man. The younger man may possess more knowledge, but there is a difference between knowledge and experience, and a man may know right from wrong without having the experience of life that enables him to discount his passions and follow his knowledge. A person who is mentally defective, and who has the additional misfortune to be born into a family of poor people and brought up in a slum, if he transgress the law can only be dealt with as though he were as fully endowed as his neighbours. If he is not mentally unsound to such a degree as to justify his certification as insane, there is only the prison for him ; with the prospect of hardships on liberation and imprisonment when he offends, till he is sufficiently mad, or his record and his condition combined are bad enough, to enable him to be



placed under the treatment he ought to have received from the first.

This is not necessarily the fault of those who administer the laws. The police are not justified in permitting offences to be committed; and whether the person who offends is sane or mentally defective it is their duty to arrest him. The medical men who may see him can only certify if they find him insane from their examination of him. Even if he is sent to an asylum the medical superintendent cannot detain him if his condition improves so far that he behaves sanely there; and out he goes to the old struggle that he is quite unfit to face, with no one to help him or to exercise authority over him when he has a wayward turn.

X 7 is congenitally mentally defective, and he has been neglected. He has a stutter which makes it more difficult for him than for others equally weak-minded to get in touch with those around him and, asking questions, to learn. When he does make himself understood he has nothing of any great interest to say, and he is bound to find in the impatience of the ordinary man a barrier when he tries to speak. He cannot get work and there is not much he could do. He haunts outhouses at night for shelter and is arrested for trespassing in doing so. He is in a filthy condition and is a nuisance and an offence to those with whom he comes in contact. He is sent to prison for committing an offence which he cannot avoid committing and which is the direct result of the destitution incident on his mental defect and friendlessness.

X 8 is a quiet, peaceable, and rather attractive young woman. She was married to a respectable young man with a small wage. She behaved very well and seemed to be managing their home in a satisfactory manner,



but to his surprise and horror she was one day arrested, and was afterwards convicted, for obtaining goods under false pretences. She had been unable to make her income serve for the support of the household, although she was not extravagant, and she had played up to her appearance and got certain articles by a story that was fraudulent. Had she appealed to his friends she would have been assisted, but she took the other course from sheer mental incapacity to deal with her situation. Her case was thoroughly investigated while she was in prison and arrangements were made for directing her on her liberation. She is quite tractable, has no vices, is anxious to do well, but is not fit to bear unaided the responsibilities of her position. The Church to which she belongs has constituted itself her guardian now that her condition has been shown; and she is not likely to transgress so long as interest in her is sustained, nor to cost much in money to those who are looking after her.

X 9 is a lad who has got out of parental control and seeks adventures. He answers questions intelligently, if somewhat insolently, and so far as a merely professional examination would show is not defective mentally. He is to all appearance simply a bad boy. Observation of his conduct in prison and enquiry outside, show the mental defect behind it. He has recurrent outbursts of temper without apparent cause, and while showing no sign of confused intelligence, he proceeds to smash things. He has been in prison for malicious mischief and for offences against decency as well as for theft. He is not given to drink, but is beginning to indulge when he can get a chance. He works intermittently, but cannot stay at anything for more than a short period. He was charged with housebreaking, but on a report from prison as to his



mental condition he was certified as insane and was kept in an asylum for about a year. He had improved so much in conduct that he was discharged, but the medical superintendent expressed the opinion that left to himself he would probably break back ; and he did ; resuming his old practices within a short period of his liberation. He can do well enough under proper conditions, but is unfit to look after himself.

X 10 is a young woman who is strongly built and of a pleasant manner and appearance. She has been a domestic servant, but falling into bad company has given up work. At first she only appeared to be "soft" a little, but drink and excess have contributed to cause or to show—for in her case it is difficult to say which—mental deficiency. She is quiet and well-behaved in prison, and is of fair intelligence, but on liberation she resorts to the lowest haunts and indulges in such excesses that when brought back to prison she is in terror of death, she feels so ill. She was induced to place herself under control for a time, and she did well, working hard and cheerfully ; but she returned to the city and resumed her old courses. All who know her recognise that she "has a want," but the defect is so slight that there is no possibility of having her dealt with for it, as the laws at present only enable her to be punished for its results. Unless her excesses produce some marked degeneration—and, as she is reported to be having "fits" occasionally, that seems probable—all that can be done for her is to arrest and imprison her when she offends. When she is a wreck she will receive the kind of treatment and the guardianship that might save her were it possible to give it now.

Just as some prisoners become insane as a result of their criminal and vicious life, some undergo mental



degeneration to a degree not certifiable. In the case of the older ones this is accompanied by such an amount of physical disability as compels them to seek refuge in the poorhouse, and they are only back to prison on the rare occasions that they leave its gates, induced thereto by a feeling of improvement and a renewed desire to visit their old haunts. Taking insane and mentally defective prisoners together, their number is small relative to that of those who suffer from no mental deficiency. Clearly then insanity will not account for crime in any except a very small number of cases. In fact the proportion of insane among prisoners generally is not greater than among the population outside, but in the case of females admitted for cruelty to children it is enormously in excess.



## CHAPTER IV

### PHYSICAL DEFECTS AND CRIME

Physical defects beget sympathy—Rarely induce crime—May cause mental degeneration—Case of jealousy and murder.

**J**UST as some degree of mental deficiency is not incompatible with the ability to live a peaceable and useful life, physical defects do not necessarily unfit a man to discharge his duties as a citizen. In either case the sphere of his usefulness is limited, but that is all that can be said. Much will depend on his social position.

When a person who is physically defective falls into evil courses, it appears likely that he should find it more difficult to return to the right path than one who is healthy and complete in all his parts; but this expectation leaves out of account the fact that the more pitiable and abandoned a man is the more does his condition appeal to the charitable. His very helplessness attracts attention and begets for him a consideration not given to those who are stronger; and if he will but place himself in their hands, there are many willing to look after the lost sheep whose condition is so pitiable. In some respects, and as things are at present, there is less need for anyone who suffers from physical disability taking to crime than for an ordinary citizen; for the law provides for



him and prevents him suffering from destitution in respect that he is disabled.<sup>1</sup>

Physical defects are in very few cases the cause of offences. They narrow the opportunities of employment, and they lessen the chances of work even though the defect may not be of such a nature as to unfit a man for it ; but except in so far as they may result in destitution—which, if due to disability, must be relieved by the Parish on application—they rarely induce crimes. In some cases, however, serious crime can be traced to this cause.

X 11 was an energetic and industrious man. He was a teetotaler and took an active interest in local affairs. He was respected and trusted by his fellow-workmen and took a leading part in the trade and friendly societies to which he belonged. He also had an interest in books ; read a good deal, considering his opportunities ; and exercised his intelligence beyond most of his neighbours. He married a suitable partner and their family life was an evenly happy one. In the course of his employment he sustained an accident whereby he lost his arm. When he left the hospital his employers found a suitable place for him ; and his income did not suffer appreciably, while his prospects were actually brighter in the new than they had been in the old situation. He began to brood over the loss of his limb, and by and by he became jealous of his wife. One day he made a murderous attack on her and was sent to prison. He was very penitent there, and quite reasonable. He explained that he had ceased to be the man he was when he married, and that since the loss of his arm his wife had regretted their union. She had never said so, but though she

<sup>1</sup> In Scotland able-bodied destitute males are not eligible for Poor Law relief.



tried to hide her change of feeling he could see it. He detailed the causes of his jealousy ; and when it was pointed out to him that, granting the facts, his inferences may have been all wrong, he admitted the force of the argument. At most he was unreasonably jealous, but not insane ; and on going over certain incidents with him and supplying the explanations of them, he agreed that he had been too hasty in coming to the conclusions on which he had acted. He said that he could not blame his wife, even while he believed she had been unfaithful ; that he could not bear to lose her and that was why he had attacked her ; but that he was very sorry he had done her the wrong of suspecting her. He was convicted and sent to prison for a period and he behaved rationally and well. His wife was warned that his jealousy might reassert itself and that there was a probability that he would become certifiably insane if he continued to brood on his accident ; and she was advised not to live alone with him. He behaved so well that the warning was forgotten. About a year after they had resumed housekeeping he nearly killed her and committed suicide.

In this case the crime was traceable to the accident which caused the loss of the man's arm. The cause is exceptional only in respect to the seriousness of the crime, but it is not at all unusual for persons who have the misfortune to be lame or deformed to show a morbid sensitiveness on the subject. Their defect overshadows their lives and colours their view of things, sometimes causing them to become reckless in their behaviour and offenders against the law. On the other hand, many develop a strain of piety and tenderness for their fellows. The presence of the defect proves nothing beyond its own existence.



## CHAPTER V

### THE STUDY OF THE CRIMINAL

The reliability of prisoners' statements — Deceit or misunderstanding?—Frankness and knowledge required on the part of the investigator—The prisoner's statement should form the basis of enquiry—Information and help obtained from former friends—The diffusion of knowledge so obtained—The prevention of crime and the accumulation of knowledge.

**A**NY study of the criminal based on observations made when he is in prison must of necessity be partial and misleading. It is like writing a Natural History from a study of caged birds. Parts will be right, but the whole will be wrong.

Advantage might be taken of his presence there to find out something of the antecedents of the prisoner. The opinions of experts may be of value with regard to him, but they are not nearly so useful as his own opinions on how he comes to be in prison, nor are they more reliable.

Prisoners are no more truthful than other people, but they are not generally purposeless liars. When a man is in trouble and is called on to give an account of himself he makes the best of his case; but people who have never been in prison have been known to make no disclaimer when praised for qualities they do not possess, preferring to let time correct any false impression that may be to their advantage. It is not reasonable to expect any higher standard of be-



haviour from a prisoner than we look for from others.

Much of what is harshly called lying on the part of prisoners is due to misapprehension on the part of their questioners. Most of them do not waste lies. If the truth will serve, it is easier to tell it, to put the matter at its lowest ; but they are frequently worried with questions they do not understand, put by persons whom they distrust, with the result that they leave an impression of stupidity and untrustworthiness that is not deserved. I remember a gentleman who considered himself a very acute observer, informing me with regard to a certain prisoner whom he had been questioning, that the man was weak-minded. I had very good reason for holding another opinion, but wishing to find out how the visitor had arrived at this conclusion, I interviewed the prisoner, and after some talk approached the subject of his recent examination. A smile overspread his face as he explained that he had been asked all sorts of questions by the stranger and had not been allowed to answer in his own way, so he got tired and let the other have it as he wished. His opinion of his examiner I obtained as a personal favour, for as he put it, "It's no for the like o' me to say onything about the like o' him—at least no here." I cannot print his words, all of them. He said, "He's a —— of a flat." Each had a poor opinion of the other, and how far each was right others may judge. The incident suggests several reflections.

It is not reasonable to expect that a prisoner will take the trouble to understand and answer the questions of a stranger whose object in quizzing him he does not know. Few of us would care to unbosom ourselves to the first visitor who chose to interest himself in our affairs. He might count himself lucky if he did not find



himself violently expelled. The prisoner cannot throw an unwelcome visitor out, but sometimes he would like to ; and the attitude of some who seek to do good is at times provocative. When the enquirer is known it is a different story. Get the name of being "all right" and you will learn, but you must first deserve confidence. Frankness begets frankness, and for my own part I have found very few prisoners who wilfully sought to deceive me when they knew why I sought information from them. It was either freely given, or withheld with the plain statement that they could not fairly give it. The information given has not always been accurate, but there are not so many people who are accurate in their statements—not through want of desire to be truthful, but because their perception, their memory, or both, are blurred.

But more than frankness is required ; there must be some ability to see things from the standpoint of those who are questioned, and a sufficient knowledge of their language to understand an answer when it is given. There are very many people who think they know the English language, and who do not seem to have realised the fact that a different significance is attached to words in different districts and among different classes. There are not merely slang words, but words used in a slang sense, and when these are taken literally the result is misunderstanding. Yet we are sometimes treated to the result of investigations by people who have had no training, and who in a marvellously short time can obtain voluminous and striking information ; how much it is worth is another question. Try to get by question and answer a short record of the antecedents of any of your friends, and you will find that it cannot be done in a few minutes, that it will not be free from inaccuracies, and that it



will require explanation before you understand it as they would like. To obtain such information from a stranger is a more difficult task.

In the case of the prisoner the advantages to be gained are worth the effort to overcome the difficulties. Having obtained his statement, it might form the basis of an enquiry into his case and an attempt to help him on his discharge. There are few men who have not some friends who are persons of goodwill. They may be relatives, or employers, or fellow-workmen; but their will may be greater than their power. Their patience may have been tried to the limit of endurance or their interest may have become languid; but if they will not or cannot help, they can at least tell what they have done and prevent a repetition of the treatment that has failed. There are very many people who would never dream of joining a society for aiding prisoners, but who will willingly assist in helping a person whom they have known in his better days. The societies have their use, but that is no reason why a man's fellows should not be enlisted in his aid; though they have no interest in the general question, they may take an interest in the special case. In the attempt it will be found that, even though the efforts made to help a given prisoner should fail, a knowledge has been gained of the existence of conditions that favour ill-doing.

Every official knows that in a great city there are occasions of misconduct which the ordinary citizen does not suspect. Such knowledge, so long as it is confined to officials, is comparatively sterile. They may speak, but some other matter distracts public attention before it has been focussed long enough on the subject to do any good. At most they may get further powers to do for the citizens things which the citizens could



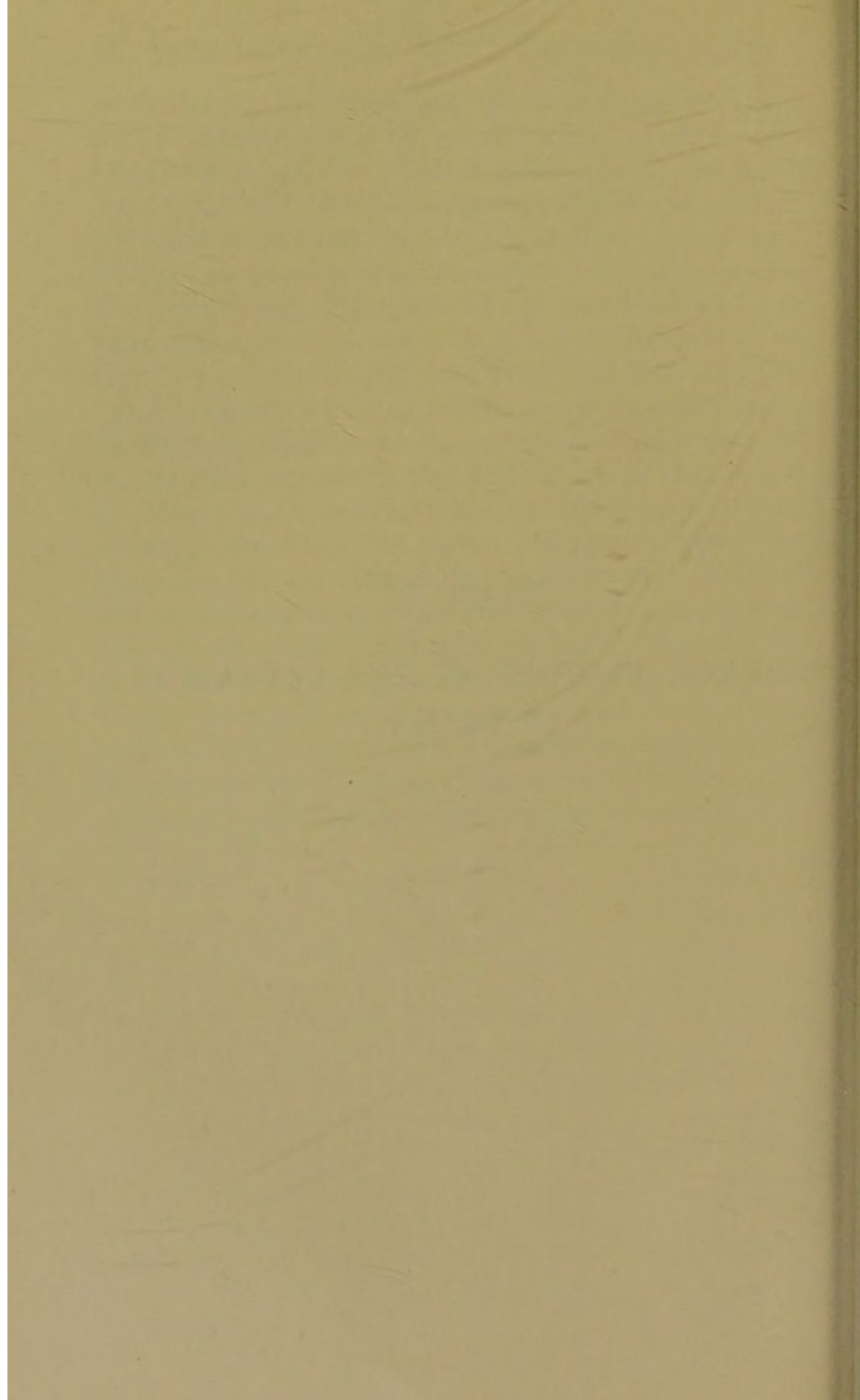
far better do for themselves. Talk of slums to a man who is comfortable is often only talk, but set him to live in them and the effect is different. In the same way, if you can, through his personal interest in a man, get another to examine into the causes of his wrongdoing; to go over the ground for himself; to see the process and the means of his degradation; that man will note how many occasions of offence exist that might be removed, and if only for the safety of his own family will give assistance in removing them. Incidentally and in process of time a large mass of information regarding the history of criminals and offenders would be collected, and some generalisations of importance might be made. At present those who generalise do so without any such careful study of the persons whom they deal with as that I recommend. For sixteen years I have been looking for the offender of the books and I have not met him. The offender familiar to me is not a type, but a man or a woman; and we shall never know nor deserve to know him till we are content to study him, not as the naturalist studies a beetle, but as a man studies his neighbour.



PART II

COMMON FACTORS IN THE CAUSATION  
OF CRIME







## CHAPTER I

### DRINK AND CRIME

Drink commonly accredited with the production of crime—Minor offences usually committed under its influence—Drink a factor in the causation of most crimes against the person—Double personality caused by drink—Drunken cruelty—Drunken rage—Assaults on the drunken—Sexual offences—Child neglect—Mental defect behind the drunkenness of some offenders—Malicious mischief and theft—Drunken kleptomania—The professional criminal and drink—Thefts from the drunken—Amount of crime not in ratio to amount of drinking in a district—The vice existent apart from crime, in the country—And in the wealthier parts of the city—Drunkenness and statistics—Summary.

**T**HOUGH the differences among prisoners in antecedents and faculties must be taken into account if they are to be treated in a rational manner, there are factors which are common to the causation of crime in many cases. Their influence may vary in strength, but it cannot be disregarded.

Drink is denounced—and consumed—by all classes. There are many who attribute all evils to its use, and some of these take the logical course and advocate the prohibition of its manufacture and sale. Others make the theory an excuse for doing nothing to remedy social conditions; for “you never can stop men from drinking,” and if drink be the cause of social evils, and you cannot stop its use, why should they worry?

Any theory of the causation of evil will be fashionable



if it offers a superficial explanation of the facts and affords an excuse for doing nothing more troublesome than giving good advice to the poorer classes. Drink has brought misery and degradation on many, through their own indulgence or that of those on whom they have been dependent ; if it does not cause, it is often an aggravation of poverty ; and it is with no wish to minimise its ill effects that I protest against exaggerating them. Our social troubles are not traceable to any one cause, and it is not profitable to single out a particular vice and place all evil to its account ; nor is the practice more laudable when the vice is not one to which we are ourselves inclined. By all means let temperance be taught and drunkenness be discouraged ; this too we shall do better when we search for the causes of intemperance.

One of the statements most frequently made is that the great majority of crimes are due to drink. It would be more accurate to say that most prisoners were under the influence of drink at the time they committed the breach of the law for which they have been convicted. The great majority are petty offenders. Strike them off and our prison population would at once be reduced by more than a half. They have been drunk and incapable of taking care of themselves, or they have committed a breach of the peace through drink. Their sentences are short and their number is large. Many of them are regular customers and return again and again in the course of the year. Whether we are dealing wisely with them will bear discussion. They do not seem to be any the better for it so far as their conduct shows. They are enabled, in consequence of the rest and regular living of the prison, to start on their next spree in a better condition physically than would be the case if they were not detained there



for a time ; but this is rather a personal than a public gain. At present they swell our prison statistics and are a burden on the exchequer. That they should be mixed up with criminals is no advantage either to us or to them. The cause of their conviction is drink ; but it does not make for clearness of statement to add their numbers to those of criminals who have committed crimes against the person or against property.

Crimes against the person are generally committed by people under the influence of drink, or on persons who are intoxicated. A man takes liquor to get out of himself, and is then in a condition to do or say things from which he would refrain if sober. Some are not improved in temper as a result of their drinking, and are more prone to quarrel and less able to control their passion. It is commonly observed that a man can and does develop a double personality, showing one set of characteristics when sober and another when under the influence of drink. In both states he receives impressions, and his actions when sober show that the impulses which direct his acts are different from those which dominate him when he is intoxicated. Just as his sober self is forgotten when he is drunk, his drunken self is forgotten when he is sober—not wholly, it may be, but in part. He seems more readily to remember violence suffered than violence inflicted by him. Impressions received in one condition tend to be revived when the person is again in that condition. If when he gets quarrelsome and hits out he finds he has struck one who will strike back, he generally gets out of the way and avoids the danger from that kind of person on a subsequent occasion. Just as he learns to keep clear of lamp-posts and other resistant objects, he learns to stop short of striking one who is likely to hurt him.



The most serious assaults are not so much the outcome of drunken anger as of drunken cruelty; and, pent up in one direction, it finds vent in another. This passion seems to possess some men regularly, and it is indulged at the expense of those who offer least resistance to it, viz. the female members of their household. With them a habit is formed of assaulting their women-folk, and the habit grows in force and intensity. In most cases of brutal wife-murder that have come under my observation, the fatal assault has simply been the last of a series committed regularly when the culprit was under the influence of drink, and the woman's death was the final incident in a long-drawn-out martyrdom.

In other cases men who are ordinarily peaceable find themselves in prison charged with assaults of which they have no distinct recollection, the result of sudden passion that has swept their minds when they were intoxicated. Others become so pugnacious when they take drink that they are not content till they are in a row and do not seem to mind whether they get hurt or not. In their case—which seems to be the most common—it is not the lust of cruelty but the delight in battle that stirs them, and though they may get fully as much as they give, it does not deter them from repeating their conduct.

Another class of assaults is that committed on persons who are under the influence of drink, and who by their misconduct have provoked their assailant. They are relatively few, and the assault is rarely so brutal in character or so serious in result; though occasionally it may end tragically. X 12 was a young man who married a girl of respectable character. They were both sober and industrious. She had been engaged in a factory before her marriage and had very



little practical experience of housekeeping. She was not accustomed to household routine, and as her husband did not get home for his meals she had a lot of time on her hands. Her house was in a different part of the city from that of her parents, and she had to make friends for herself. Unfortunately she got into the company of some who gossiped together and moistened the talk with drink. At first she abstained, but by and by she began to do like the rest; and unlike them she could not control herself. She showed a tendency to excess which they tried to discourage for their own sakes as well as hers. Her husband discovered her misconduct, and in order to break her of it removed to another district. For a time she did well, and her relatives helped her. But again she drifted in her search for company into that of those who took the "social glass." It is wonderful how a woman when she has once taken to drink finds a difficulty in making friendships with other women who have not done so, unless she becomes a militant teetotaler. In the present instance the young wife had relapse after relapse over a series of years, and her husband seems to have done all in his power to save her. She had two children, and when sober she attended to them adequately; but her fits of drinking began to occur more frequently, and in them she became more reckless. After one, in which she had sold out the household furniture and disappeared, she returned penitent and he set up house again with her. She kept sober for some weeks, they were getting things together, and he was trusting her with some money. One Monday evening he went home from his work to find the house partially stripped, the children neglected, dirty, and in tears, and his wife in a dazed condition waiting to receive him with maudlin apologies. In



his anger he pushed her from him. Her body struck the corner of the table, and shortly after she fell and died. She had sustained rupture of an internal organ and she bled to death in a few minutes. The result was altogether disproportionate to the amount of violence used and was in a sense accidental, but her death could as truly be attributed to drink as many of those which result from the assaults of drunken persons.

Drink plays an important part in the commission of sexual offences, but it is not more generally a factor in such cases than in those of simple assaults. In the great majority of these charges against men under middle age it is found that the assailant was at the time under its influence, however; and in the most atrocious and unspeakable cases it is rarely absent unless when there is insanity present.

Of late years there has been an increasing desire on the part of the legislature to secure proper care for children, and to punish those who by negligence or cruelty allow their offspring to suffer. Cases have been reported that reveal a shocking state of affairs, and parents have been prosecuted and sent to prison for their callousness and cruelty. Of all prisoners these are usually the most hopeless and useless; the most entirely selfish in their outlook; the most inclined to grumble and shirk work; the persons with the keenest sense of their rights and the lowest sense of their responsibilities—this from a merely superficial observation of them. The care of the children falls naturally to the women; the provision for them to the men. The men have excuses to offer for the condition of the children, and these excuses are sometimes valid; for a man cannot be at the same time working outside to support his family and looking after them in the house. If the woman is given the money to



defray the necessary expenses, and neglects their care, it is difficult for her to stand excused. In practically all the cases drink enters into the question, and its presence explains but does not excuse the neglect.

It is a good thing for the children that they should be removed from the care of parents who are cruel to them either by neglecting or by maltreating them, and it is well that those who are inclined to carelessness should know that their conduct may form the subject of complaint; but a person may be physically fit to have children and mentally incapable of taking care of them. A large proportion of those women who have been convicted of cruelty to children are in this sad case. The evidence has been of the clearest that they have squandered their substance, indulged their appetites, and shamefully ill-used their offspring, but only after they have been placed out of the reach of drink is it possible to say whether at their best they are capable of undertaking the obligations they have incurred by becoming mothers. In some cases their mental condition has been so bad as to justify their removal to lunatic asylums; in other cases the mental defect is quite perceptible and is obviously such as to unfit them for their duties, but is not sufficiently marked to enable them to be cared for by the lunacy authority. Drink has been held accountable for their conduct and it has had a share in its causation, but it has masked the permanent flaw behind it, whether that defect has existed before the subject gave way to drink or has resulted from drink. In the case of these women it is a serious matter to allow them to return to duties they are unfit to discharge, especially as there is a probability that the condition of the family may be aggravated by its increase. Among women convicted



of cruelty to children there are very few who are not mentally defective as far as my experience goes.

Just as drink causes some people to become savage, it incites others to mischief. If a man lift things that do not belong to him and carry them off, that is theft and punishable as such. If the culprit could state the case to the magistrate as a lawyer would, it would be classed as malicious mischief; but if he had the necessary training, or could afford to pay a lawyer, he might not be in court at all. It is not yet an uncommon thing for young bloods to destroy or take away the property of others, but they are not charged with theft as a result of their exuberance. They are not usually charged at all if they compensate the owners. Students of medicine have been known to return from a symposium with a miscellaneous collection of articles which they had conveyed without authority from shop-doors, in addition to an occasional door-bell handle or knocker. If any of them had been convicted of theft in consequence of this conduct, he would as a result have been struck off the register and been prevented from entering the profession for which he was training. A conviction for malicious mischief would have no such grave result. The consequence is quite as serious in the case of a labouring man. It is not merely that the sentence is heavier; that is the least of it; it is the reputation of being a thief that is attached to him on his discharge which he will find difficult to overcome. It is bad enough for his prospects of honest employment that he should have been in prison, but if the cause was not dishonesty he may be regarded as merely foolish. If his offence has been theft it is another story. Explanations are not wanted—nor thieves; and the dog with the bad name may set about in despair to deserve it, becoming



a recruit to the ranks of the professional criminals. In such cases the man's downfall may be attributed to drink; but he might reasonably attach some of the blame to our stupidity in dealing with him.

Apart from those who are led into sportive acts when they are in liquor, there are some who take to theft pure and simple. X 13 was a most respectable man about thirty years of age. He was honest and industrious, and except that he occasionally gave way to intemperance he appeared to have no faults or follies. He was not very fond of company, and after his work was done he spent most of his time at home in his lodgings, where he had the reputation of being a quiet, peaceable, and somewhat studious man. He was arrested one night when under the influence of drink, in possession of property which had been stolen by him. On his room being searched the proceeds of several thefts were found, and the remains of articles which had been stolen and partially destroyed. It became apparent that he had been responsible for quite a number of thefts from public places during the two preceding years. His story was that he had no recollection of stealing; and on the Sunday morning after his first theft he was horrified to find a bag containing articles of clothing in his room. He ascertained from his landlady that he had brought it home the night before, and he told her some story to explain his questions. He made no attempt to sell the property, but destroyed it in detail. He kept off drink for a time, but falling in with some old friends one night, he took too much and again he stole. It preyed on his mind to such an extent that he went on a spree, with the same result. He could tell nobody of his trouble, and he got into despairing and reckless moods in which he flew to drink, nearly always returning with some-



thing. He was remonstrated with on account of his growing intemperance, but with very little result; and it was a relief to him when he was found out. How many thefts he had committed was never known, but he had never made a penny by them. He was not a kleptomaniac when sober, and his case is an uncommon one in respect more to the freedom he enjoyed from arrest than to the nature of the impulse which he obeyed; for there are a good many occasional thieves who are quite honest when sober.

Others have fallen from a position as law-abiding citizens, and have lost their self-respect, as well as their position, through habitual intemperance. Their one passion is drink, and they will do anything to get it. They cannot get work and could not keep it if they did, because of their unsteadiness; so they live off others by begging or by stealing.

The most troublesome criminal to those whose duty it is to protect the public, and the most dangerous to the property of his fellow-citizens, is the professional; and no more than other professional persons does he go to business the worse of drink, for that would be taking an unnecessary risk. There are few occupations in which sobriety is not required to ensure and maintain success, and this is true whether the business be an honest or a dishonest one. Not that the thief need be a teetotaler; in his hours of relaxation he may be found proving the contrary; but he cannot afford to drink during business hours. In prison he may say that he is there on account of the drink, but the statement, though it may be true, is misleading. It is a convenient formula, and serves to prevent further enquiry. He knows that those who question him have their prejudices, and he is aware that it is the fashion to trace all crimes to drink—and no further.



Let him frankly confess his failing for liquor and he will obtain some sympathy which may materialise on his liberation. It is literally true in many cases, the statement : " If it hadna been the drink I wadna been here." But it is also true that he has not been honest when sober. For every time he has been caught there are many thefts he has committed and escaped capture. Continue the enquiry and it is found that what he means is that if he had not obscured his judgment with drink he would not have attempted the job he undertook ; or he would have kept a better look-out before he did take it in hand. He is not a thief because of the drink, but a thief who is caught because he has been intemperate. The drink in this case has not proved an ally to crime, but an auxiliary of the police ; it has not caused the theft, but has enabled the thief to be caught.

In many cases, however, it assists the professional criminal ; for the intoxicated man is an easier prey to him than the sober citizen. He can be assisted home by willing hands that will go through his pockets with skill on the road. He can be lured into dens that when sober he would avoid, and there be robbed at leisure and with little risk. He may even be relieved of his property without any pretence of friendliness, with small chance of his offering effective resistance or causing a hot pursuit. In all these ways he affords opportunity to the thief, and to the extent that the drink places him in this condition it is a cause of crime.

It appears then : (1) that the great mass of prisoners were under the influence of drink at the time they committed the offence for which they have been convicted ; (2) that of these the " crime " of the majority is drunkenness, or some petty offence



resulting therefrom ; (3) that nearly all the crimes against the person are committed by, or upon, people who were intoxicated at the time ; (4) that many offences against property are partly the result of drink ; (5) that the majority of crimes against property are not due to drunkenness on the part of the criminal.

But the amount of crime in Scotland is not in proportion to the amount of drinking in any district. The consumption of drink is not confined to our cities and towns, and excessive indulgence sometimes takes place on the part of people who live in the country, yet no considerable proportion of our prison population comes from the courts of country districts or of small towns. The vice may be present without issuing in crime, though the drink itself has the same effect on the drinker whether he be living in the town or in the country.

In the country and in small towns, where the population is stable and where people are not packed together, they have opportunities each of knowing his neighbour, and they take some interest in one another. Indeed, one often hears complaints of villagers taking too much interest in their neighbours' affairs. If a man drink more than he can carry, there is usually someone about who will see him home ; or at worst he finds rest until he recovers, without the necessity of interference of an official kind. In the town, although a man may have friends who would be willing to look after him, he is separated from them, not by green fields, but by rows of tenements and multitudes of passers-by who have no personal interest in or knowledge of him ; and if he lie down he obstructs the traffic and has to be taken in charge. He need not be any more drunk than the man in the country, but he is a greater public nuisance.



In the country if a man have his evil passions stirred or inflamed by drink and seek to indulge them, friendly hands restrain him from doing the injury he might otherwise do, and the crime which has been conceived may never be executed; but in the city a man may, and sometimes does, brutally assault and even slay another person, while people are living above, below, and on each side of him; and no one troubles to look in and ascertain what is going on. Men do not know their neighbours and do not care to interfere in the affairs of strangers. They have learnt to attend to their own business and to leave other things to their paid officials. The officials likewise attend to their business; and the prison cells are filled with men and women who have taken liquor to excess and have had no friendly hand to assist them or to keep them out of mischief. In the absence of this restraint and help, crime is just as likely to result from excessive drinking in the country as in the town.

There is another difference in favour of the country toper that is worth noting. The man who sells him the drink is usually a member of the community in which he lives, and he cannot afford persistently to outrage the sentiments of those among whom his lot is cast. He will not find it to his comfort to obtain the bad opinion of his neighbours; and if he get the name of filling his customers full he may run the risk of losing his license. It is not to his interest to disregard the welfare of his patrons even were he so inclined. Each district has its own standard of what is fair and allowable, and no publican can safely continue to fall below it. In the large towns the licenses are not usually held by men who live in the district. Many of them are in few hands. The licensee is repre-



sented by barmen who have a most harassing and exacting time ; who work long hours for wages that are seldom what could be called high ; who are engaged selling drink to men the majority of whom they do not know ; and who are expected while keeping within the law to sell as much liquor as possible. Public opinion in the district can only touch the publican on his financial side ; and then only by a campaign directed to ensure regulations that are sometimes as futile as they are vexatious, and that attack indiscriminately the man who is really trying to conduct his business in a reasonable way and him whose only care is to get as much out of it as he can.

But not only is there drinking in the country as well as in the town. There is no district of the town that has a monopoly of temperance. There are fewer public-houses in the wealthier than in the poorer districts, but there are more private cellars. There is no bigger proportion of teetotalers among men who have money than among men with none ; and business men are as much given to drinking as artisans or labourers. There is a difference in their methods of consumption, the one judiciously mixing his potations with solids, the other taking his amount in a shorter period of time and running a bigger risk of getting drunk. Even when he does get beyond the stage of being quite clear in the head, the wealthier man has the means of getting home quietly, and there may be no scandal and no arrest. Though there may be as much drinking in the district in which he lives as in some of the congested parts of a city, there is less crime in proportion to the number of inhabitants ; so that there are other factors than drink necessary to the commission of crime, even when drink is present.

In Glasgow we are accustomed periodically to learn



from the testimony of English visitors that we are the most drunken city in the kingdom ; and tourists write to the newspapers and tell their experiences and impressions of sights seen in our streets, quoting statistics of the arrests for drunkenness. This alternates with panegyrics of the city as the most progressive in the world—"the model municipality." We are neither so bad nor so good as we are sometimes said to be. That the streets of Glasgow—or rather some of them—are at times disgraced by the drunkenness of some who use them, is quite true ; but the fact that some travellers at some times see more drunk people in a given area than may be seen in any English city does not justify the inference that the inhabitants of Glasgow are more drunken than those of other cities. In no English city is there so large a population on so small an area. If there are more drunk in a given space there are also more sober people ; but only the drunks are observed. In Glasgow, moreover, the ordinary drink is whisky, which rapidly makes a man reel. It excites more markedly than the beer consumed so generally in England, which makes a man not so much drunk as sodden. If it were worth the retort, one might point out that even if it be true that in Scotland you may see more people drunk, in England you see fewer people sober.

As for the statistics of arrests they are absolutely useless for purposes of comparison, if only because of the different practices that prevail in different parts of the country in dealing with drunks. It is also well known that a comparatively small number of persons is responsible for a very large number of arrests.

The facts show (1) that drink puts a man into a condition in which he is more liable to commit an



offence or crime than he is when sober ; (2) that while drinking is common in all parts of the country, police offences and crimes occur mainly in closely populated districts ; (3) that the amount of crime and police offences in Scotland is not dependent on the amount of drinking alone, but is mainly dependent on indulgence in drink under certain conditions of city life ; (4) that the major portion, and the most serious kind, of crimes against property, are not attributable to drink.



## CHAPTER II

### POVERTY, DESTITUTION, OVERCROWDING, AND CRIME

The majority of persons in prison there because of their poverty—Poverty and drink—Poverty and petty offences—Poverty and thrift—Poverty and destitution—Case of theft from destitution—Poverty and vagrancy—Unemployment and beggary—Formation of professional offenders—The case of the old—The degradation of the unemployed to unemployability—No ratio between the amount of poverty alone and the amount of crime—A definite ratio between density of population and crime—Slum life—Overcrowding—Cases of destitution and overcrowding—Overcrowding and decency—Poverty and overcrowding in relation to offences against the person—The poor and officials—The absence of opportunity for rational recreation—The migratory character of the population—The multiplication of laws and of penalties—Transgressions due to ignorance and to inability to conform—Contrast between city and country administration—Case of petty offender—Treatment induces further offences—The city the hiding-place of the professional criminal—Crime largely a by-product of city life.

**W**HILE the majority of prisoners were under the influence of drink at the time they committed the offences for which they are convicted, it is equally true that they are in prison because of their poverty. They are there because they are unable to pay the fines imposed on them. Their offences may be attributable to drink, but their imprisonment is due to want of money. There are many who are most estimable citizens, though poor; poverty alone does not lead them to prison. On the other hand, there are many people who drink



to excess and do not transgress the law; their drunkenness alone does not lead them to jail; but while a man may be poor and virtuous, his poverty will compel him to live under conditions in which any vices he has may easily develop into crimes or offences.

It is sometimes said that poverty, and especially the poverty of the masses, is the result of drink, but no statement was ever more grotesquely untrue. That drink aggravates poverty is obvious; but no one can shut his eyes to the fact that all poor people do not drink, and that all teetotalers are not rich. Drink is often a cause of poverty; but to attribute poverty mainly to drink is wantonly to libel thousands of our poorer fellow-citizens who live far cleaner lives than many of their critics. On the other hand, it is equally unsafe to attribute drinking mainly to poverty, for many who indulge freely are possessed of considerable means, and the practice is not peculiar to any social condition. That some are driven to drink as a refuge from the monotony of their lives is undeniable; but if poverty makes some men drunkards it makes others teetotalers. They see that their chances of "getting on" are less if they take drink than they would be if they kept strictly sober, and they abstain till they have attained their object; though they may make up for their abstinence afterwards.

Of prisoners convicted for committing petty offences—the largest number—many have been driven to offend by the squalor of their surroundings. Poverty tends to limit a man's choice in work and in recreation. He is on the verge of destitution, having nothing in the way of reserve, and he is forced to take work that may and often does result in an income that is much less than the expenditure of energy necessary to obtain it. If he is a member of a family or has friends in the



district where he is living, he can usually obtain assistance in the time of his distress ; and he is himself counted on to render help when required. That such help is commonly given by the poor to the poor is a commonplace, but its importance in preventing destitution in places where poverty is always present is not sufficiently recognised.

The majority of working-class families live almost from hand to mouth. The utmost to be expected from them in the way of thrift is provision for pay in time of sickness from a friendly society ; and even that is not possible for all the members of a household. Provision may also be made for aliment from a trade union in time of unemployment ; and in some cases for some period there may be something saved and set aside in the bank. They are accustomed to hear of their improvidence from people who have never known what it is to suffer from ill-health and consequent loss of income, and who would find their place in a lunatic asylum if they tried to live for a year under the circumstances of those whom they criticise and direct. Their lamentations and advice are sometimes echoed by the man who has risen from the ranks to comparative opulence, and who forgets that if his neighbours had been like him he would never have been where he is. The only capital they have is their health, and anything may happen to set aside the principal member of the family and throw the others into a struggle that may lame them.

The life of the individual worker is nearly always one of interdependence. In his early years he is dependent on his parents and his elder brothers and sisters. When he is able to work his wages go into the common stock, and by the time he can earn enough to support himself he may have to contribute to the support of



his parents. Thrift in the case of any family cannot be estimated by the money saved, and in many of the model thrifty families it may be found that the cash saving has been made at the expense of starving the bodies and minds of the children. Time and again, well-doing families have become destitute after a severe and prolonged struggle, or after a short period in which they have suffered blow after blow, as a result of sickness or loss of work ; and as there is no public provision made for helping such people until they are quite destitute, and then only the minimum of relief is given them and they are set adrift to recover under conditions that render recovery almost impossible, it is wonderful that so many manage to survive.

Those who sink are not therefore to be condemned on that account as worse citizens than those who survive ; the time at which they have been struck by calamity may account for all the difference between them. We are all liable to sickness and death, but if either comes at one time rather than another it may make a very considerable difference to our families. When a man who is in a steady situation with a fair wage dies leaving no provision for his wife and family he is condemned. It is in vain to point out that he used his pay towards their comfort and in such a way as to ensure their fitness ; he ought to have been more careful ; and the very people who preach faith are the first to blame him because he took no thought of tomorrow, but did the best he could in the day that was his. The fact is that every man who thinks, among those that are dependent on the wages they earn—usually under a precarious tenure of their situations—sees that his choice lies between securing the best conditions in his power for his family in order that they may be the more fit to do their work in the world,



and doing something less in order to lay by some money for them ; between starving them in essentials during his lifetime to secure them from starvation should he die, and giving what he has while he is there to give, in the hope that he may live to see them develop healthily.

From poverty to destitution is in many cases but a short step, and it may be taken by those who have done nothing to deserve it. Sickness, loss of employment, absence of friends who can assist, may drive a man to extremity ; and then it is a hard task indeed for him to keep within the law and live. His sickness may enable him to qualify for parochial relief, but as soon as he is recovered so far as to be able to go about he may be cast adrift without means of support.

If a man does not live by working he can only support himself by the work of others ; being destitute he must beg or steal. X 14 was a man of thirty-five years of age who was charged with theft. He was somewhat "soft," and had managed to support himself during the lifetime of his relations by casual labour. He was physically in good health and mentally not bad enough to obtain care from any public body. On the death of those who had looked after him he drifted to the common lodging-houses, but he had not enough devil in him to be attracted by any of the vicious or to indulge in any vices. He began to find difficulty in obtaining employment. Under the stress of his condition his mental defect became accentuated, and, though not prominent enough to call for official recognition, it hindered him in his efforts to obtain work. Asked why he had stolen, he gave a reply that in its reasonableness was striking. He said, "What was I to do ? I tried the parish, but they could do nothing for me, for I'm quite weel. I tried beggin', but I didna



get much, an' I was caught. You're no sae often caught when you steal." He did not want to steal, but it was the easiest thing to do. In begging he took a risk of apprehension for everybody he approached, and from most he would get nothing in the way of help. He took the same risk when he lifted something, but at any rate he drew no blanks. He had some very orthodox views on punishment; for he believed that the proper thing to do with a man who stole—when you caught him—was to send him to prison for so many days, the time to depend on the value of the property stolen; but he thought that the man who had suffered imprisonment for theft, and so paid the penalty, ought to be allowed to enjoy the proceeds of his theft; and he complained that though he had served so many days for the theft of a pair of boots, he had not been given back the boots on his liberation. I cite his case here, in spite of the fact that he was mentally defective, because he really stated correctly the dilemma into which a person is driven when destitute; and because he appeared to be one who, had it not been for his poverty and destitution, would not have required attention either as a mentally defective or a criminal. His social condition gave no opportunity for the proper development of his mental powers, but stunted their growth. As for their quality, it is in no wise different from that of many who, thanks to better chances, are able to get themselves accepted as public leaders on the strength of an absence of showy vices, and the exposition of a logical and narrow view of things; solid men and safe, free from levity and serious-minded.

Poverty is no crime, but it is something very like a police offence if the poor person is destitute. Everybody needs food, clothing, and shelter, and they cannot



be had without money or its equivalent. A man may starve and go in rags rather than beg or steal, but he must sleep somewhere. He cannot pay for a lodging, and to sleep out is to qualify for sleeping in a cell. If the police were not better than the law in this respect our prisons would always be full. There are many men out of work who are far from anxious to get it ; indeed, and for that matter, most people are quite content to do no more than they need ; and in spite of all that has been said of the blessedness of labour, there are few of the most earnest preachers against the idleness of others who would prefer to work longer hours for less pay rather than shorter hours for more.

We must discriminate ; the objection to the man who will not work is that he is not content to want. When he gets like that he is so far from being an unemployed person that he has adopted the occupation of deliberately living off others ; that is his profession, and I am not at all sure that it is quite as easy as it is assumed to be by those who have not tried it. Certainly the amateur beggar makes but a poor show with the professional. His is, at any rate, a dishonourable and an illegal profession ; but while in some cases he has been brought up to it, in many he has drifted into it through destitution. We ought to have no professional beggars and no professional thieves ; but as they are in some way made, it does not help to an understanding of the question to label them "habitual," condemn them, and neglect to ask, if they "grewed," how it was they began their career. Many of these full-blown specimens have been offered work at remunerative rates and have scorned it, which shows—that they did so ; that is all. It does not show that if in the beginning they had been taken in hand they would have refused to do their share of labour. All



experiments of that kind only prove that the sturdy beggar finds it easier and pleasanter to beg than to do the kind of work offered to him ; they teach nothing as to the causes which led him to begging ; and poverty and destitution are the most common causes.

In our large cities there are numbers of children who are destitute because of their parents being unable to provide for them, or failing to do so. They are cast on their own resources from a very early age, and have sometimes to assist in the maintenance of others. When they can, some of them leave the homes which have been far from sweet and take to living in common lodging-houses—in Glasgow we call them “Models,” with a fine sense of humour, for they offer the best of opportunities for the formation of citizens who will not be models. If the boy grows up as he can, and in the process develops anti-social qualities, it is not he who is most to blame ; and when we condemn his conduct, as we must, we might at least admit that his course has largely been shaped by the destitution which it would have paid us better to prevent than to punish, when as its result we have allowed him to develop into a pest.

At the other end of the ladder there are men who are refused work because they are or seem old, and who are driven down through destitution to become petty offenders. I remember when I was employed in the poorhouse a man was brought to be certified insane. He had attempted to sever a vessel in his arm in order that he might bleed to death, but his ignorance of anatomy—he was a pre-school-board man—had caused him to make an ugly gash at the wrong place. He was talkative, and his story was clearly told. He was about fifty years of age and was unable to follow the only trade he knew. He was an iron-worker and had



done hard work in his day. He had never been a teetotaler, but he had always attended to his work. At times he made good wages, but he had suffered from periods of depression. Sometimes he had been able to save money, but it had always melted. He could get work when work was to be had, but for some year or two now he was physically unable to take a place. He had contracted a disease of the heart. His son had got married and had two children. He was a well-doing and industrious young man; sober, steady, and a good workman. He had been supported by this son, of whom he spoke in the highest terms. He also was an iron-worker. The son had never grudged him his keep, nor had his wife. Why then had he attempted to kill himself? His explanation was as clear as it was unexpected. He said, "Doctor, do I look unhappy?" He did not; indeed he was rather cheerful. "Well, I never had ony melancholy, if that's the name for't. My son's a good lad. He slaves as I slaved, and at the end he'll drap tae. I'm done. I've enjoyed my life on the whole, but I'm fit for naething but to be a burden on him. He disna object; but there's the weans. Every bite that goes into my mooth comes oot o' theirs. If they're to be something better than their faither or me, they'll need mair of the schule; and what wi' broken time an' low wages they'll no get it. I want them to be kept frae work till they're educated tae seek something better. He and I have had our share of hard work. I've had my sprees, but he's a better man than I was—no a better tradesman; I'll no say that—an' I want his weans to hae a better chance than he had. No, I'm no a Socialist; I'm a Tory if I'm onything, but I never bothered wi' political questions, though I've heard a heap o' blethers on a' sides. What? Hell? Noo, doctor,



does any sensible man believe in that nooadays? God's no as bad as they make Him oot to be, an' at onyrate I believe that death ends a'." There was no shaking him. All he wanted was some lessons in anatomy—which he did not get. He insisted that he was as sane as any of us, and asserted that he could not be certified; but he was wrong there. The law takes most elaborate precautions to prevent people killing themselves, aye even when it has sentenced them to death, but so far it has not made any provision for enabling them to work for their living.

We hear of the unemployable who could not work even if he were willing, but apart from those who labour under mental or physical disabilities—and many of them can and do work—I have not met many of this class. There are many on distress works who make a very poor show; they are not fit for that kind of work, but that is a different thing altogether from saying that there is nothing they can do that is useful. Certainly in the ordinary sense it cannot be said of the man who is too old to secure employment that he is unfit for work. He is shut out by competition, the employer quite naturally preferring what he believes to be the more efficient workman. Few of the older men who are thus thrown on the scrap-heap take things in such a way that they try the open door of death, but the fact that they are condemned to forsake their occupation does prey on the minds of many and embitter their lives; and the fear of dismissal increases in intensity as their hair turns white. When the blow falls, if they have no resources what is to become of them? There are all sorts of schemes proposed for dealing on the one hand with the young and keeping them longer at school, and on the other hand with the older men and providing them with



work. To an outsider it would seem that if the number of men employed is sufficient to produce what is required, and there is a large surplus of unemployed labour, those who are working are working too long. A stranger might be excused for thinking that if one man is working eight hours and another not working at all it would be better for both that each should work four hours; but if he said so he would only show his simplicity. The man who is employed would quickly point out that this would reduce his wages. Yet when a man gets promotion, whether in the public service or in private business, his salary and his responsibilities are increased—the former certainly, the latter in such a way that it becomes less easy to get rid of him—but his hours are usually reduced; for more money would be of little use to him if he did not get time to spend it. This is merely an observation, not a doctrine; but it is difficult to see how employment is to be found for those who are willing and able to work unless we cease to improve machinery and produce less economically; or increase our production enormously; or divide the work and the proceeds more evenly. In any case, and while that matter is being settled, we might recognise the dilemma into which those are thrust who cannot find work and are destitute.

They must beg or steal, and if they get into the way of doing either they are liable to become less fitted and less inclined for other occupations. X 15 was an artisan earning a fair wage and enjoying good health. He was married to a woman who was a good housewife and manager. When he was about thirty-eight he was thrown out of work by a strike in an allied trade. A commercial crisis ensued and there was general distress. He managed for a time to keep his



head above water, but his resources gradually were eaten away. His employers wound up their business, and when the local difficulty had passed he found that he had to look out for another place. While idle he had formed the acquaintance of others in like case. He had been a steady, stay-at-home man, but in their company he took to amusements which were harmless in themselves and new to him. He also imbibed a taste for beer, but he did not get drunk. The company was not bad company, but it was different from any he had been accustomed to, and it was not good for him. For a time he looked for work, but he did not find it. Others got settled, but the luck was against him, and he became discouraged and despairing. By and by he looked about in a half-hearted way, and gave more time to loafing than to seeking rebuffs. He was not destitute, as his family was able to keep the wolf from the door. In two years he was only interested in getting drink from anybody who would treat him, and in discussing public affairs with others who had fallen like himself. He had given up the idea of work and had degenerated from a good citizen to a loafer and, later, to a drunkard. He was never convicted, but he had to be warned because of his conduct towards his wife; and he died as a result of exposure when drunk—to the relief of his family, who were in danger of being dragged into the mire by him. In this case his family saved him from destitution, but the loss of his work drove him almost imperceptibly into the ranks of the derelicts, in spite of the counter-influences of home. In many cases there is no family to do what his did for him, and the process is more certain and easy.

Poverty compels men to live under conditions in which their vices may easily develop into crimes or



offences ; and it makes those who have transgressed the law less able to recover from the effects of a conviction and more liable to become habitual offenders ; but it cannot be said that the amount of convictions in Scotland is in relation to the poverty of any given district. In some parts of the highlands and islands, where poverty is pronounced, there is an entire absence of crime.

While no ratio can be traced between the amount of drinking or the degree of poverty and the number of crimes or offences in Scotland, there is a very definite relationship between the density of the population and the incidence of breaches of the law. Not only is there more crime in the city than in the country, but from the densely populated parts of the city there are more committals than from the less crowded districts. The sanitary reformer has shown us that our city slums are breeding-places for diseases that do not confine their operation to the people who dwell there, but may easily infect those who live under more wholesome conditions ; and substituting vice and crime for disease and death the statement is equally true.

By letting in light and fresh air to the houses where so many dwell we are able to save lives which would otherwise be crippled or destroyed by the insanitary conditions in which they are placed ; and just as surely we could break up the aggregations of people whose acquired way of living is fatal to the proper development of an enlightened civic spirit, if we were as eager to prevent as we are to punish wrongdoing. There they are ; born into little boxes of houses which are packed together in rows and built in layers one above the other in the air. Their home life is passed in similar boxes ; and when they die they are put in smaller boxes and placed in layers under the earth. The health



officer would speedily interfere if we tried to house as many pigs to the acre as human beings ; but we eat the pigs and cannot permit them to be raised under conditions that would be likely to result in their contracting disease. Also there are fewer people making a living by furnishing accommodation for pigs than for men ; and it is easier to regulate an occupation when those who are engaged in it are not influential, than when they are ; for we have a traditional dislike to interfering with the rights of property. It is therefore much easier to punish a slum-dweller for breaking our sanitary regulations than a slum landlord for living off rotten dwellings.

It is well known that the worse the building is, the bigger the rent charged in proportion to the accommodation supplied. If a man owns house property he expects to make a profit when he lets it, from the difference between what he has paid for it and the rent he receives from it. X 16 is an old woman who is past work and has no resources. She has been in the poorhouse, but will not stay there, though better housed and better fed and kept cleaner than when outside. She is too old to settle down to the ordered life of the institution, and when all its advantages are enumerated to her and all available eloquence has been expended on her with a view to persuading her that in her own interest she ought gratefully to accept its shelter, she sullenly and silently shows that her opinion of the place as a desirable residence does not coincide with that of those who are in no danger of being forced to live there. She rents a small house and takes in lodgers, intending to make her living from the difference between what she pays and what she receives in rent. Under the Glasgow sanitary regulations certain houses are " ticketed " ; that is



to say, their cubic content is measured, and a card is fixed on the door stating the number of cubic feet in the place and the number of persons who may be lodged therein. One adult is the allowance for every 600 cubic feet; and half that space is allowed for every person under twelve years. The sanitary inspector is entitled to demand admission at any hour in order to ascertain whether there is overcrowding. He calls one night and finds that the limit has been exceeded, and she is sent to prison, in default of paying a fine, for overcrowding. Of course there is a difference between her and her landlord, for she has broken the law. Precisely; but what kind of law is it that can reach only the poorer transgressor and allows the partner in profits to escape?

X 17 is a woman of forty-two who has never been in prison before, and is under sentence for overcrowding. On a midnight visit the sanitary officer found six adults in a room ticketed for three and a half—a bad case. The woman's story was that her daughter had been married to a young man some twelve months previously. He was an iron-worker and seemed decent enough. He lost his situation through bad trade and was unable to get another. Meantime a child was born. The young people wrestled along for a time; but after exhausting all the channels of aid which were open to them, they were turned out of their house for failing to pay the rent. Their furniture had been disposed of. The girl's mother took them in to shelter them. She admitted she had kept them in lodgings for some weeks before the "sanitary" came down on her, and I suspect she had been warned, but as she said, "What was I to do?" Asked if she had informed the magistrate of the facts, she said she had not. "I pleaded guilty, because if ye dae that ye get aff easier."



She could not even make the best of her case, but if she had been able to employ a lawyer she would not have required to transgress the law ; and as for stating her own case, that is what few are able to do—till by experience they learn. Even when a person of education and means finds himself in conflict with the law, if he is prudent he gets an experienced lawyer to appear for him and present the truth in the way that will appeal most strongly to the judge.

Overcrowding not only breeds disease, but it tends to destroy the sense of decency, and affords opportunities for the commission of crime which ought not to exist. Now and again cases come before the courts that have to be heard with closed doors, and in every one of them this factor of overcrowding is present, affording the opportunity and inducing to the commission of the crime. The subject is so foul that it cannot be adequately treated here without grave occasion of offence. Unspeakable corruption is easy and possible, and it goes on because it is unspeakable.

It has often been said that poverty and destitution are not likely to lead to the commission of crimes against the person, but rather to crimes against property and *a priori* there is something to be said for the statement ; but whatever the likelihood we need not concern ourselves with it when the facts are before us for examination. In the first place, the great majority of persons in prison for committing assaults of all descriptions are poor persons. It is a rare thing for one in a good position to be convicted of assault, and even the most cursory examination of those who are in prison for assaulting others will show that their social condition was a factor in the causation of the crime. I have pointed out the part that drink plays in the matter, and incidentally shown that it is mainly



operative under the conditions which exist in closely populated districts ; but many of the minor assaults are committed by persons who are not under the influence of drink. Next to drink, among the women, the most common cause assigned by them for their imprisonment is "bad neebors." They do not lose their tempers and fight with each other because they are poor or destitute, but poverty makes strange bed-fellows and forces people to rub against one another in such a way as to give occasion for trouble ; and to leave the fact out of account is simply to attempt to study man apart from his surroundings and to ignore the effect they have on his conduct.

In some parts of Glasgow—much as it has been improved during the last generation—there is literally no room for the people to live. A place to sleep in, to afford shelter from the weather, to take food in ? Yes. Room for recreation or for quiet rest ? No. The forbearance, the good-humour, the willingness shown to stand aside and allow another member of the family to monopolise the scanty accommodation, are wonderful ; and they are the rule. Now and then, here and there, a breakdown occurs ; and if it result in a breach of the peace, we are not concerned to recognise the cause, but only to punish the wrongdoers. "What's done we partly may compute, but know not what's resisted," and are not disposed to find out.

A stair-head quarrel is a stock subject for the humorist ; but try to live for a week in such close and constant contact with anyone, earning your living the while with exhausting labour, and your wonder will be that the peace is so well kept. The fact is that those people put up with a great deal more than their censors would stand, and that is one reason why they are so badly off. If they were as impatient of our



smug mismanagement as we are of their transgressions we should have learned how to regulate our cities long ago. There is a great effort made to evangelise the poorer classes, and it is well supported by earnest men who are better off ; it would not be a bad thing if the slums returned the compliment and started a mission to the West End. The *a priori* reasoner would then perhaps learn that while he might expect that crimes against property would in part be the result of poverty and destitution, because such crimes would relieve the poverty, though in an illegal way ; crimes against the person are also frequently a result of poverty, not that they are committed with a view to its relief, but because discomfort, irritability, impatience of restraint, and other mental conditions which lead to assaults, are as much an outcome of poverty as it exists in the slums of our great cities as are hunger and want.

There is no slum district in Glasgow that does not contain a larger number of well-disposed than of evil-disposed persons ; but a tenement may get a bad name through the misconduct of one or two of its inhabitants, and a street may be regarded as wild although there is only a minority of rowdy people living in it. We take no account of those who do not annoy us, and when the noisy people anywhere assert themselves we forget all about the others. When we interfere officially it is to find that, good and bad, they stand by one another. In this respect they are like gentlemen ; they do not give one another away to outsiders ; and it is an interesting sidelight on their view of the law that they do not look on its representatives as their friends. So often its interference results in making their condition worse that they distrust it ; and it is often a greater terror to those who do well than to



the evil-doer. It is no uncommon thing to see a woman who has been assaulted by her husband plead with the court to let him go, and make all sorts of excuses or tell the most incredible story to account for her injuries. Then we hear exclamations and reflections on the power of human love and the forgiving spirit of even a degraded woman. Human love is wonderful, but it is no more marvellous than human stupidity; and in these cases the woman is moved not so much by love of the man as by knowledge of the results to her and hers of our way of dealing with him. On the whole, she prefers to run the risk of ill-usage from him when he is at liberty, being assured of his protection against the ill-usage of others, to having to wrestle on in his absence and suffer from the disapproval of others who are as badly off, because of her disloyalty. See that her condition is really improved by his conviction and she will be less likely to perjure herself in the attempt to save him from the penalty of his brutality.

In every slum district there are some living who could afford to go elsewhere, but who remain where they are because it has never occurred to them that they should remove. They have gone to the district in its better days, and the change in its character has been so gradual that they have not taken much notice of it. They stay on just as men stay on at business after the need has passed, because they cannot think of doing anything else and are loth to seek fresh fields. It is not good for them that they should do so, but it is not bad for the slum; for old inhabitants of this kind exercise a good influence on many of the others.

Most slum-dwellers are not there because they prefer slum life, but because they are unable to pay for better accommodation. The smallness of their dwellings



makes healthy home-life difficult and in some cases impossible. Having no room in the house for the recreation required after work, the man goes out to seek change. The opportunities offered to him are few, except those provided by private enterprise. There are the parks, and great advantage is taken of them; but in Glasgow they are nearly all at considerable distances from the most crowded districts. The public bowling-greens are used to the utmost in the evenings, but are only available for a part of the year. The libraries attract comparatively few of those whose labour has entailed much physical strain on them; and picture-galleries and museums appeal to only a very limited number of our fellow-citizens, working-class or otherwise.

It was once the idea of those who pleaded for the public provision of means of recreation that these should be of such a character as would "improve" the working classes. The intention was excellent, but the people themselves were left out of consideration, as is usual when efforts are made to recreate men instead of providing opportunity for them to amuse themselves. Perhaps they do not believe that it would be an improvement to conform to our ideals; at any rate, the great majority have not shown any eagerness to take advantage of the means for studying science and art which we have placed within their reach; and they remain as regardless of the worship of these deities as the great mass of the richer people who quite honestly have sought to elevate them. The private caterer has found a way to interest them, for if he failed to do so he would lose his means of livelihood, and that fact may have helped to sharpen his powers of perception. He has to amuse men as they are, not as he thinks they ought to be; and our regulations



quite properly debar him from doing so in an objectionable way. The entertainments provided may not be of a very high order, but the purpose of recreating thousands is served. If we regret that they do not seek something better, let us remember the monotony of their lives, the numbing effect of the conditions to which they are subject, and be thankful they do not seek worse.

The small house of one or two rooms in a tenement is what the majority have for a home, and when there is a family it is insufficient to enable them to evolve a complete and healthy home-life in it. Social intercourse is of necessity restricted, for there is no room for the gathering of friends; and though public entertainments, while valuable adjuncts, are poor substitutes for social intercourse, they are better than nothing. The public-house is almost the only place where the mass of town-dwellers can meet in a social way with their friends, and the perils attendant on such meetings are evident to all men. The effort to provide some substitute for it has taxed the ingenuity and baffled the attempts of many temperance advocates and social reformers. Much as they have been criticised, the music-halls and such places have been a powerful counter-attraction, but any means of public entertainment cannot in the end supply the need for social intercourse between kindred spirits. Some day the fact will have to be faced that the only real substitute for the public-house is the private house; and when that is fully realised the slums will go.

Many have to migrate from one district to another because of the nature of their work. They have not "steady jobs," and though they may not suffer from unemployment, they may be engaged now in one part of the city and now in another. The result is that they



have no abiding dwelling-place, and as a rule have only the barest acquaintance with their neighbours ; for when people are moving about in this way they have neither the same opportunity nor the same desire to form friendships with those around them. Improvement in the means of locomotion has contributed to send employers and well-to-do people out of the crowded areas of the city and away from the parts wherein their employees reside. They see less of their workmen than did a former generation, and their wives and families know nothing about the men whose co-operation is required to secure their comfort. There is less of personal contact than there was and more chance of mutual misunderstanding. The bond between employer and employed becomes more and more a mere money bond ; each seeks to get as much as he can out of the other ; and with it all there arises a general feeling of instability and insecurity, the necessary result of the absence of a spirit of fellowship such as can only spring from the existence of a personal as distinct from a pecuniary interest between man and man.

Where people are crowded together regulations are required for their health and comfort, and the liberty of each has to be restricted in the interest of the community. The more closely they are packed the more interference is required. Practices which in the country might be harmless or even laudable would be intolerable if permitted in the town. To make our rules operative we enact penalties against offenders—and sometimes enforce them. There are so many now that it is questionable if there is anybody in Glasgow who has not at one time or another been a transgressor. The man from whose chimney black smoke has issued, or who has obstructed the footpath by leaving goods



outside his shop-door, does not worry over, because he is not seriously worried by, such laws. He may swear a little when summoned, and say evil things about the officiousness of the authorities, but it is a small matter to him even though he is fined. The man who finds himself in court for using strange oaths in public or for spitting in or upon a tramcar has more worry over the business. Even a small fine makes a serious inroad in his day's earnings, and the loss of time attending the court docks him of the pay by which he might discharge the fine. However much it may be required, every extension of the police regulations for the government of a city implies an increase in the number of offences and offenders dealt with; and while it is necessary that transgressors should be made to cease to do the things the law condemns, it does not follow that the wisest means are always taken to secure this object.

A crusade against consumption will meet with hearty approval everywhere; but if the crusaders allow their zeal to direct their energies wrongly their good intentions cannot be held as an excuse for the harm they do. In a city that is ordinarily covered with a haze, and sometimes with a cloud, of smoke; where the inhabitants for the most part live in tenement houses that by no stretch of fancy could be called spacious; where the workers are in many cases subjected to severe physical strain by the nature of their work; and where the weather is variable and trying; it is not surprising that many should suffer from "colds." They are under the necessity of spitting, and they spit not out of joy of spitting, but because they have to. The practice is filthy—it is all the evil things that can be said of it; and it should be discouraged. The best way would be to



alter the conditions that occasion it ; the worst way is to make the spitter a comrade of the criminal before the bar of a police court.

As with this so with many other offences ; they are manufactured without due regard to the injury that may be caused by their enforcement. It is an easy thing to place burdens on the backs of others, but in fairness to them it should first be ascertained whether they can bear them. Many of our laws are transgressed because of ignorance or helplessness ; and neither is an excuse. We are all supposed to know the law, and surely no greater irony could there be than such a hypothesis. If everybody knew the laws there would be no need for lawyers ; and if the lawyers were agreed as to what is the law at any time there would be little need for judges. So well is it recognised that even the judges differ, that one set is employed to correct another ; and a final decision is only arrived at because there is not another set yet provided to differ from them. If a layman does not know the law he may be punished for his ignorance ; but if a judge does not know it the person in whose favour he has given a decision may be punished by payment of the costs of appeal. Let us not be too hard then on the ignorance of the man who has transgressed one of our numerous commandments.

In the country, and where people are not crowded together, there are offenders against good government ; but there each one knows the other, and when a man commits a petty offence, though the local constable sees it, he may be judiciously blind if in his judgment that is the best course to take. He knows the inhabitants—they are his friends—and he reacts to the opinion of the district. If he makes an arrest the matter is discussed, and when the offender comes before the



court, magistrate and prisoner meet as persons who know one another. Judgment is given on a knowledge not only of the offence, but of the offender, and all parties in the case are tried by the public. In the city it is not possible for the policeman to know the people who live in his district, nor for them to know him. This is a great disadvantage to begin with, for he is not able to distinguish between those who may be corrected and restrained by their friends without the need for their being charged and those who cannot be so dealt with. He arrests a person whom he does not know for committing an offence. The prisoner is brought before a judge who knows neither of them, save officially, and judgment is given according to scale. As for informed public opinion directed on the proceedings, there is none. In the city as in the country, however, if an offender is known as being ordinarily a well-behaved man he may not be prosecuted. If he is overcome by drink someone may see him home or send him there. It is not so much a question of his being well-to-do ; it is a question of his being known. If not known, no matter what his means he cannot be sent home in a cab ; but he may be taken to the police station in a wheelbarrow.

What else can the police do ? We take men of good physique and character, many of them country-bred and unacquainted with the complexities of city life. They are paid the wages of a labourer, and with a uniform invested with powers and duties of the most varied kind. They must be able to keep people from offending, or to arrest them if they do offend ; they must know the law ; they must be prepared to act as doctors on emergency—what must they not be able to do ? We multiply our complaints, and cast on their shoulders duties we ought to perform ourselves ;



blaming them not only for any blunders they may commit, but also for our own. We compel them to make arrests and then lament the result. X 18 is sent to prison in default of paying a fine, on conviction for using obscene language. She is seventeen years of age, but does not look more than fifteen. In years she is a young woman, but in body and in character she is a big girl. She is the eldest of a family, the father of which is a casual labourer. The mother does occasional charring. Both take drink, but neither has ever been convicted or charged. The girl is employed in a factory and earns about enough to support herself. At night she wants some fun after her day's work, and she does not want to assist all the time in the household. She plays with other and younger girls and is probably their leader. There is no playground for them but the street corner, except they take the "back close," which is not lit and which might be a source of greater evil than the street. A complaint is made to the police of the bad language used by the girls. It is certainly lurid ; but where have they learned it ? The decorative expressions complained of are part of the current vocabulary of many in the district, but are used with more restraint by the elders. We have all our pet adjectives, which differ in different localities and are of the nature of slang. In the West End a thing may be "awfully nice," though nothing can be at once awful and nice ; in the East End the adjective may be quite as inappropriate, but everybody knows its signification ; and so with other parts of speech. True, their language is filthy, but it does not shock those who use it ; and that is perhaps the saddest thing about it. The girls are warned, but they persist in speaking their own language, and in bravado ornament it profusely and shout opprobrious words



at the policeman. One is caught. She has not necessarily been worse than the others in her behaviour, but she has either run in the wrong direction or not fast enough to escape. She is taken to the police station and warned. The complaints persist. Again she is arrested. She is the bad one ; she was taken before.

On her liberation from prison she had lost her work. She was shunned by the other girls, whose mothers forbade them to associate with one who had been in prison, lest they should be taken in charge also. It is an offence to associate with some classes of offenders and criminals, and the cautious among the dwellers in these districts do not care to take risks, so they try to keep clear of anyone who has been in the hands of the police. The law may be right enough, but you will not get them to believe that the innocent person is safe ; not if he is poor. "Keep awa' frae Jeannie. She's been in the nick ; an' if they see you wi' her they'll maybe think you're as bad, and land ye there tae." They would help her if they could, but they fear that association with her would only hurt themselves and do her no good. Those who have been in prison themselves will go with her, and those who are reckless ; to their company she is confined, for she will not take to religion and the help of its professors. She is soon back again ; as cheerful and as tractable as any girl could be.

In essence it is a common story. The police could have done nothing else in the circumstances, and she had no grudge against them, but admitted that they had treated her fairly ; can as much be said for those who by persistent nagging force the hands of their officials, and who are more bent on punishing offenders than on mending their bad manners ? We have lost the personal interest we ought to have in our neigh-



bours ; we have gone out from among them ; we have cast on officials duties we ought to undertake ourselves as citizens, and the result is an increase in the number of offences. In themselves these offences are small matters, but the offenders in many cases find themselves in prison for the first time as a result ; and it is the first time that counts. Every time a man is sent to prison for a small offence committed he has been given a push towards the life of a habitual offender ; and the poorer and more destitute he is the greater difficulty will he have in overcoming the effect of that conviction. His first appearance may be on account of a small transgression, but there is a common saying that is often taken to heart—"As well be hung for a sheep as a lamb."

The absence of personal interest in their neighbours on the part of men in crowded districts not only permits atrocious assaults and homicides to take place in the very heart of a densely populated district, but it allows thieves to exercise their profession unmolested because unknown. It also enables them to escape observation when they are being sought for. The city is their hunting-ground and their refuge.

Crime is largely a by-product of city life. It might be mitigated if we were more public-spirited ; but it will always be an evil crying out against us, so long as we permit conditions to exist which shut men into dens under circumstances that make decent communion and fellowship between them difficult if not impossible, and compel them to remain there till they can pay a ransom to the man who holds up the land for his profit or his pleasure.



## CHAPTER III

### IMMIGRATION AND CRIME

The stranger most likely to offend—The reaction to new surroundings—The difficulty of recovery—The attraction of the city—The Churches and the immigrant—Benevolent associations—The alien immigrants—Their tendency to hold themselves apart—Deportation—A language test required—The alien criminal—His dangerous character—The need for powers to deal with him.

**A** MAJORITY of the prisoners dealt with in Glasgow police courts are not Glasgow-born ; and this holds true of outlying towns. It is the stranger who is the "bad one."

The town-bred man more readily accommodates himself to the conditions of life there. He grows up among them and his life is rooted in them. While he is yet young his steps are directed for him, and he learns to avoid dangers into which the stranger may fall. There can be no association of a man with his neighbour anywhere without some degree of conformity to a common standard of conduct. No one can outrage the social customs of his companions with impunity ; and everybody is more or less influenced by the opinion of those for whom he has a regard ; so he conforms to the standard of behaviour set by the circle in which he moves and is steadied thereby. If, as is generally the case, his companions are not ill-disposed, he is likely to be a law-abiding citizen ; if otherwise, he will get an impetus towards



crime. In any case he is of the soil, and his growth can the more easily be watched and directed.

The man from the country finds himself living under new conditions that may rapidly make or mar him. He is away from the friends to whom he looked for guidance ; he is cast on his own resources and must exercise an independent judgment ; a temptation is not checked by the consideration of what the family would think ; and having nothing but his own inclinations to consult, he is more likely to run loose than he would be when at home. He is not necessarily more vicious or more foolish than his town-bred brother ; but he is not accustomed to the same kind of temptations, and can neither resist them as well nor yield to them as gracefully. He is therefore more likely to succumb, and more likely to suffer severely from the consequences if he is found out ; for just as he is handicapped by the want of guidance, being a stranger he is not so likely to get proper assistance if he falls into trouble.

Men are attracted to the city by the hope of increase in pay and pleasure ; and though in some respects the life seems unattractive enough, they still come. The only people who are certain not to come, and perforce to stay, are those who have a home in the country and fixity of tenure there. Their sons may and do invade the towns, but when they do not succeed there they return to the land. Workmen in the country are as liable to lose their situations as townsmen ; their work is hard and their hours of labour are long ; they think their pleasures are few and dull compared to those men may have in the city, and they gravitate to it. They are drawn in by its glitter, and driven in by the drabness of country life ; sometimes also by the clearance of men to make way for the huge pleasure-



grounds that disgrace Scotland, and have resulted in the replacement of men who drew their subsistence from the soil (living a hardy life and rearing a healthy race) by deer and their keepers. When the landless man comes to town and fails to find steady work, he cannot go back to the country unless the family of which he is a member have some hold on the land. The children of crofters do go back in times of depression, returning to their father's holding and working there ; but the others swell the ranks of the unemployed and are in peril of degeneration into the loafer or criminal.

The Churches play an important part in helping those young people from the country who are recommended to them ; but many never connect themselves with Churches when they come to town at first. Some make a beginning, but drop off, not so much because they dislike religion, but because they like occasionally to talk and think about something else ; and in comparatively few of the Churches is the need for providing social intercourse recognised. A man filled with the missionary spirit can find numerous outlets for his energies, for there are evangelistic meetings held in all districts and on all nights, and they welcome newcomers ; there are also temperance societies engaged in the propagation of their ideas ; but the majority of people who migrate to our towns are not prepared to engage in that kind of occupation in their leisure hours, and they have just to drift for the most part.

There are Benevolent Associations of the natives of one county and another which have a powerful influence for good in aiding those who come under their care, but that they do not cover the whole ground is evident from the fact that many of their compatriots are never heard of by them. That they stand by one another



in an admirable way is undeniable, and their influence is so strong that for certain kinds of public appointments in Glasgow the Glasgow man has a poor chance—there being no Society of the Natives of Glasgow in that place yet.

The absence of family counsel and constraint which may lead to the degradation of the man who takes the wrong turn, may be a powerful aid to his rise if he gets on the right track. He has to think and act for himself; and his freedom from ties enables him to attend more exclusively to his business. The immigrant to the city from the country is largely represented in prison; but he is also largely represented in the town council—and the one place may be held to be as typical of the reward of the ill-doers as the other is of the well-doers.

There is another immigrant whose conduct usually receives more attention from the public, viz. the alien. In the West of Scotland foreigners are present in large numbers, having this in common, that they tend to form little colonies wherever they settle, retaining many of the habits they have brought with them, and remaining aliens in the sense that they are not absorbed in the community as they ought to be. In the collieries in various parts of the West of Scotland large numbers of aliens are employed. Their names, which in many cases are difficult either to pronounce or to spell, have been set aside by somebody or other and local names substituted; so that it is not uncommon to find a man with a familiar name who is quite unable to speak the language of the country. They keep themselves apart, and do not usually interfere with others, but some of them get into trouble through fighting among themselves. Ordinarily peaceable and tractable, they contribute a fair quota to the number



of serious assaults committed, though the person assailed is usually another alien. Their ignorance of the language also makes them a source of danger to others.

When they have done some wild or criminal thing the culprits are deported, after they have served their term of imprisonment; but their isolation from the life of the district has in many cases contributed to the offences committed, since it has prevented them from acquiring the point of view of natives of this country and has caused them to follow the customs of their own land. Any proposal to prevent their settling here would come with a very bad grace from us, whose relatives are scattered all over the globe and who pride ourselves on the fact. They are healthy; and are neither wild nor intractable, but are generally industrious and steady. In their interests and our own it is surely not advisable to permit them to continue as colonies apart, separated from us by the bar of language.

It would be no act of tyranny or hardship to insist that every alien settling here should, within twelve months of his arrival, satisfy the local authority of his fitness to speak the language sufficiently well to enable him to understand others and be understood by them. At present it is no uncommon thing to find men who have been in the country for years and are yet unable to engage in the simplest conversation in English—or Scotch if you like. In one homicide case the accused had been in the district for sixteen years, could only speak a broken dialect, and required to have the simplest statements interpreted to him. In the city this condition of things is less marked, but as a general rule aliens—apart from the professionals—who are committed to prison do not speak the language



intelligibly, even though they have been some time in the country, and that for the same reason—they get on all right without it. The Italians and others who are largely engaged in trading, pick up enough to enable them to understand and be understood; their occupation makes this a necessity; but even among them the interpreter is far too often required. People are generally given to save themselves trouble; and to learn a language is troublesome. If they can escape the necessity they will do so, and there is no need to blame them for it. But their ignorance is a trouble and a possible danger to us, and it does not seem to be unreasonable to ask that it should cease.

There are other immigrant aliens who do speak the language and who are present in the large cities. These are the professional criminals who import their vices, and work their business, in a very systematic way. They are more remarkable for their knowledge of the law than for their ignorance of the language; and they are a very dangerous although not a very large element in the population. They have an organised system of correspondence and go from one part of the country to another, where they have connections. They employ skilled lawyers for their defence when they get into trouble, and within certain limits assist each other in the way of business. There are some of them capable of any atrocity, and they are all quite different from the ordinary criminal of the professional class familiar to us here. They have a certain amount of polish, and an aptitude for appreciating the standpoint of others sufficiently well to get on their blind side. As for moral sense as we understand it, it does not seem to exist in them.

Crime is their business and they place business first. When they are convicted they are deported, but their



resources and organisation enable them to escape conviction very often. They require to be dealt with in a much more drastic way than the law at present permits; for they are not only a danger because of their depredations, but their presence and conduct incite our own undesirables to do things they would not otherwise attempt. As the law stands the onus of proving their undesirability rests on the police, and it is very difficult to get positive evidence. If they were required, on the initiative of the police, to prove to the satisfaction of a court that they were earning an honest living, they would find it impossible to do so. It may be objected that this is like assuming a man to be guilty till he proves his innocence, which is contrary to practice and a bad principle on which to act. As a matter of fact, it is acted upon with our native thieves, once they have been convicted; they may be charged with being found in possession of property and required to account for having it or go to prison; and they can be summarily tried.

In respect that a man is an alien he might reasonably be required to show that he is not living off the proceeds of crime, as a condition of his being allowed to remain in the country. He may be refused permission to land if his character is known; but these people know how to get past the immigration authority. Why they should then be free to transgress until they trip and are caught it is difficult to see. If an alien seeks citizenship here he must satisfy the authorities that he has lived for at least five years in the country and during that period has been a reputable citizen. The onus of proof is on him, and it is not assumed that because he has never been convicted he should be naturalised. The examination to which he voluntarily submits in order that he may be-



come a British subject he need not undergo if all he wants is the protection of our laws while he is living by breaking them. I suggest that just as some aliens have to submit to examination before being allowed to land, those who have given the authorities occasion to suspect that they are living by illegal means should be cited to appear before and satisfy a court that their conduct is such as to justify their being permitted to remain in the country ; and failing their appearance, or their being able to do so, that they should be arrested and deported.



## CHAPTER IV

### SOCIAL CONDITIONS AND CRIME

The millionaire and the pauper—Ill-feeling and misunderstanding—Social ambitions—Case of embezzlement—Preaching and practice—Gambling—The desire to “get on”—The need to deal with those who profit by the helplessness of others—Political action—Its difficulty—Legislation and administration—The official and the public—Personal aid—Fellowship.

**O**UR social inequalities are the cause of much serious crime. That such inequalities always have existed is undeniable, and that they may continue to exist is at least likely; at any rate, there is no immediate prospect of their abolition; but the form and degree they take are variable. Within recent times the gulf between the wealthy and the poor has been widened. The pauper is an old inhabitant, but the millionaire is a new portent. The rich man of our grandfathers' day was a local magnate who might be capricious, but who could be personally approached. His successor is cosmopolitan. The poor in those days were not so well informed as they are now that the ends of the earth have been brought together, and the mechanical inventions that have brought wealth to many have enabled the multitude to get a wider outlook on the world. A rich man may be courted for his riches, but they do not now gain him reverence from the poor.

If free education has not educated the masses any



more than the expensive kind has educated many of the rich, it has enabled them to read. They know more than they did, and with the access of knowledge discontent with their condition has increased. For good or ill many of them have lost the fear of hell, but the fear of the poorhouse is still with them as with many who are better off. The desire to make money dominates all sorts of people, and in the effort men are marred. Each sees the greed of his neighbour, but fails to see that he shares the vices of those he condemns. The man who is "successful" is critical of the faults of those less fortunate; and they in turn are often too ready to attribute his position to his absence of scruple rather than to any ability he may possess. There is envy on the one side and distrust on the other; but out of, and in spite of, it all there is steadily growing an effort towards co-operation and mutual help.

In the welter of conflicting interests there is much done that every man would disapprove if he saw it done by his neighbour. Yet those whose conduct is most shady are often not conscious of the enormity of it, being too much engrossed in the end they seek to be particular as to the means; and that end is not always an ignoble one. They mean to do great things and kind when their ships come home; and they do not see that the question for each of us is not, What would we do if we had what we desire? but, What are we doing, being what we are and where we are?

In the thirst for wealth dishonest practices are condoned in business, and within the law robbery is allowed. There is a disposition to take more account of what a man has than of what he is; and this cannot fail to have a vicious effect. X 19 was a young man who held a position of trust and received a small



salary. He had no showy vices and, so far as could be ascertained, not many others. He was strong in the negative virtues; being an abstainer from drink, tobacco, and such things as are affected by pleasure-seekers and cost money. His employers were quite satisfied that they had in him a model servant; but they found their mistake, and were as unreasonably indignant as they had been unreasonably pleased; for he had been conducting a very ingenious system of fraud upon them. With the money he had abstracted he had been speculating in shares, and he had been successful up to a point. If his last venture had turned out well he would have been able to resign his situation and live virtuously ever after, first paying back to them their money. This is what he calculated would take place, and if his expectations had been realised nobody would have known of his misfeasance; but he lost on his venture and there was a crash. He pleaded guilty to embezzlement and was sent to prison for a long period. He had disposed of a considerable sum of money, but the curious thing about it was that he claimed that he was simply doing what his employers lived by doing—using other people's money without consulting them as to details; though he admitted that in their case they were in a position to meet claims, and their clients knew that their money was not lying in a safe. He took his sentence quite philosophically, with the remark that he had observed that people who had defrauded certain kinds of commercial corporations, such as banks, always got longer terms of imprisonment than those who merely robbed poor people; and as the firm that employed him was a big concern he would have to be made an example of. He was shrewd in his observations, however wrong-headed they were in some respects, and he is



not the only young man who has taken the risk in the attempt to acquire riches and who has argued in the same way. The number of those who are tempted to do so will diminish when it is shown that the successfully dishonest person is as much condemned by the opinion of those whose society he seeks as the failure is condemned by the law.

Men young and old go wrong in the endeavour to make a show. They want position and are willing to pay for it even at the expense of others ; indeed, there are many who spend as much effort and energy in intriguing to get a position they could not fill as, if properly applied, would enable them to qualify for it. Some want to be social leaders, and exceed the limits of their income in the attempt. So long as they merely get into debt their creditors are the losers, but there are limits to credit and their situation may offer them facilities for speculation. The intention is to repay the money ; but the honourable intention may be out of their power to execute, and the criminal act brings them to disgrace and ruin. In all cases where the process has gone on for years without discovery, the offender is found to be firmly persuaded that he is rather an ill-used person, and that if he were only allowed time he would be quite able to show a balance on his side of the account. This suggests the reflection that his conduct must have been often under review by himself, and a wonder as to how long he has taken to twist his mind to a belief in his own integrity in face of the facts ; yet it is only some such belief that has enabled him to continue his defalcations. It is sometimes matter for surprise to the public that men who have continued to embezzle funds for years should have appeared so respectable ; but they are not acting a part ; they have convinced themselves of



their uprightness through it all, and that is a very important step towards convincing others.

Even the Churches are not free from the imputation of making the end justify the means; and with lectures against gambling they sometimes run lotteries to obtain funds. This does not show bigotry against gambling, but it can hardly help to drive home the objection to the vice. Example is worse than precept in these cases.

The Press, which reaches a wider audience than the pulpit, is becoming more a means of making money for its proprietors than a medium for the formation of reasoned opinion; and some papers have organised sweepstakes under the thinnest disguise. As for betting, there are numerous papers that depend on it for their profits. Workmen and women pore over the betting news and run into debt to back a horse. The misery that many entail on themselves and their dependents by this conduct is widespread, and efforts have been made to check it, but it does not seem to be diminishing. As a rule it is safe to assume that people do not bet with the intention of losing, but with the hope of winning. It is not harmless excitement they seek; it is money they want; and they argue that they are doing nothing different from what is done by wealthier people on the Stock Exchange. They know as little about horses as those who speculated in rubber knew about that substance; and they have no interest in improving the breed. They want to be rich without working, and they see that some men manage it. The losers are forgotten; and what do they matter anyway if *we* win?

This spirit of selfishness and greed is not confined to the gambler, though it shows itself nakedly in his pursuit; and before it can be exorcised a better



conception of our duty to each other will require to be attained. Meanwhile it is a small thing to prosecute bookmakers and those who deal with them, if the higher forms of gambling are left untouched. The poor cannot afford to gamble and must be protected from themselves; but can anybody afford to gamble? Can the State afford to allow them to set such an example? The whole evil has been dealt with in a peddling spirit. The bookmakers stand to win, whoever may lose, but they are not the people who gain most. They are not an influential class, however. If the newspapers were prohibited from publishing betting news the machinery for the gamble would fall to pieces; but if this were attempted there would be a howl, for they are not without influence. So there are difficulties. There always are difficulties when influential people have to be dealt with; and it is much easier to hit a little man than a big one—but the profit is less. I do not say that there are not those who gamble for the sake of the excitement, but that these do not come to prison as a result. The man who does run grave risk of landing there is he who gambles for the money that he may win but that he usually does lose.

The desire to shine among others is at the root of much of the foolish and criminal conduct of many men and women. It is not necessarily an evil desire, but the methods adopted to secure admiration may result in evil. There is much talk of the dignity of labour, side by side with the worship of money. If people draw the conclusion that the dignity of labour means that one man should work that another may spend, they are likely to make an effort to escape the dignity. They hear of the blessings of poverty, but they see that among them are not comfort and social



consequence ; and in so far as they prefer these they will let anybody else have the blessings. To admit that some must be poor if others are rich is not to accept the poor man's lot for oneself. So long as honest work is only given formal praise and poverty implies practical hardship, while the possession of money is allowed to create a presumption in favour of a man, there will be those who will seek to get it by any means in their power. If we paid the homage to poverty that is given to wealth we might reasonably expect to find these people content to be poor ; but while there is no likelihood of that being done, we may as well face the fact that our social inequalities result in the commission of crimes against property among a proportion of those who have a chance of helping themselves thereby. The great mass of men and women—rich and poor—do keep free from grave offences, living their lives quietly and discharging their duties as citizens according to their light and their ability ; but these false ideals stimulate many to the commission of crime. It is well, therefore, to remind ourselves and others that ultimately a man is judged not by what he has but by what he is, and to recognise that a man is foolish if he sacrifices his life and dwarfs his personal development for any social advantage whatever.

The conditions which engender crime may be greatly modified and in many cases may be destroyed by political action. Crime is largely a concomitant of city life, as we have it. To live properly people need room, and so long as the present congestion exists all our efforts can at best palliate the evils which infest and infect us. We may regulate the sale of drink in order to prevent drunkenness ; we may classify our poor and attempt to relieve their poverty ; but drink



and poverty are factors which remain comparatively inactive in the causation of crime, except where men are packed together to the degree in which we see them. Let our cities continue to be hemmed in and built in the air instead of being spread over the earth, and we shall require additional sanitary regulations to combat disease and more police laws to cope with crime, while the numbers in our institutions will increase.

The city is the product of our industrial pursuits and the methods by which they are followed ; but the city as it exists is no more necessary to the life of the community than the city before the day of Public Health Acts was a necessary part of our civilisation. Men could live conveniently near each other and work at the same occupation, at least as efficiently, if they had room, as is possible under the cramping conditions that exist at present. Man's life ought to be something more than his work ; and there will be more who work to live when there are not so many who merely live to work. Reform your cities ; or rather see that men are not allowed for their private interests or pleasures to " do what they like with their own " in defiance of the public welfare, and the cities will reform themselves.

The tenants of the crowded districts are hustled by the law, which in some cases they offend from sheer inability to do otherwise. When those who make a profit by the existing conditions of affairs are as summarily dealt with there will be a possibility of improvement. There are some landlords who assume the supervision of their property and of their tenants, but others are merely rent collectors ; and their carelessness provides opportunity for the criminal classes to hide themselves. So long as the law allows



men to make a profit by denying others access to the land except on payment of whatever ransom they choose to exact, the cities will remain crowded and the country will become depopulated. When the landlord is made to pay if he will not let his land be put to its most profitable use, there will be less inducement for him to withhold it for a time in the hope of realising a famine price from the needs of the community. It is poor policy to punish people for the results of the strain to which they are subject while those who profit by the cause are left alone.

But political action is slow and political parties are—what they are. To most of us a change of Government means that Lord This is replaced by Mr. That ; probably relatives, and almost invariably belonging to the same caste ; none of them particularly hasty in applying the remedies in which they believe—for when it comes to doing things instead of talking about them a great deal more depends on sentimental impressions, the result of friendly contact, than on intellectual opinions and political theories. Politicians are like other people ; their imagination can more readily picture the result of action as it affects their own friends than as it affects those of another social class. Those who have a vested interest in the present conditions of things may personally suffer by any remedial change ; and though there are many who are magnanimous enough to place the public gain before all else, there are far more who honestly cannot see that any measure whereby they would suffer a private loss can possibly be a public gain. They are often very estimable persons, and knowledge of that fact paralyses the action of their friends who are politically opposed to them.

It would be so much more easy to remedy evils



if those who profited by their existence were only ill-natured and grossly selfish people ; but when they are kindly and courteous it is a pity to push them. Besides, they are often widows and orphans ; for there is a remarkably high rate of mortality among the husbands and fathers of people who have money invested in land and in breweries. There are other widows and orphans, however, who have no intimate friends in Parliament, and whose condition cannot appeal so powerfully to the imagination of Ministers because they belong to another class. The trouble is that the measures that would aid one set of widows and orphans would hurt the other ; and even when legislation is passed its action is delayed out of tenderness to existing interests.

There are many men in every Parliament who are anxious to remedy the bad conditions they see around them, and they are not confined to any side of the House ; but there is no popularly elected body in the country where the private member has so little power. In a Town or County Council he has a vote in the election of the executive, and if he is not pleased with the conduct of those whom he helps to office he can let them know the fact pretty effectively. The Member of Parliament finds the Government formed without any consultation with him on the subject, and if he belongs to the same political party it is disloyalty for him to criticise Ministers unfavourably. He is, however, allowed to praise and defend them, and this usually keeps him tolerably busy. For the rest, he must never vote against them except on a subject that they count of little importance and on an occasion where they are quite sure of having a majority without him. He must keep his own side in, no matter how much he disapproves of their conduct



of business ; and he must recognise in practice that the men who lead are the party. The people who sent him there may replace him at the first opportunity, but he will have the consolatory reflection that if the other side has got in it is only to behave in the same way. Some other members of the families whose hereditary genius for governing the country has made us the great nation we are will fill the posts their relatives have vacated ; and the electors will continue to have the shadow of representative government while the substance remains with their betters.

Whatever the laws may be, much will depend on their administration. The more the Parliament is occupied in discussing legislation the less attention can it pay to administration. The real executive power thus passes into the hands of the permanent officials ; and the tendency is that they should direct, as well as carry out, policy. As the public departments extend their activities they are brought more closely into contact, and it may be into conflict, with the lives of the citizens ; and it is all the more necessary that the powers given to them should be exercised in consonance with the views of the representatives of the public, or the public servant may become the master of those he serves. A man may be both able and zealous, but if his ability and zeal are employed in the wrong direction he is a greater danger than a stupid and lazy man would be ; yet if he is not guided and directed in the path he ought to go he can hardly be blamed for following his own judgment.

The only security that public departments will act in accordance with public opinion lies in their intimate supervision by representatives of the public. At present it is notorious that only a nominal supervision exists, and this is bad for everybody concerned ; bad



for the Member of Parliament, for his constituents will not separate administration to which they may object from legislation which they may approve, nor his votes from the acts of the departments ; bad for the officials, for the desire for power grows with its use, and the heads are in peril of confusing their will with the public interest and their prejudices with the good of the service, while their subordinates will be tempted to a servility that is fatal to faithful discharge of duty, if they get the idea that their comfort and their promotion depend without appeal on their chief ; bad for the public, for it is a poor exchange to overthrow the tyranny of an arbitrary monarch and to live under the unchecked dominion of a Board. This condition of things may seem far off yet to many, but it has arrived already so far as some of the poor are concerned, for they are hurried and worried and prosecuted by zealous officials for doing things they cannot avoid doing ; and for my part I do not believe that that is in accordance with public opinion, though I do not attribute blame to the officials concerned, who are only acting according to their light.

Where there are an enlightened public opinion and a real public interest in affairs it is better for all concerned ; and though Parliament may fail to deal with those whose interests conflict with public needs, there are many things that private citizens can do to mitigate existing evils, even although there were no new legislation passed. Officials could be aided and encouraged to aim at the prevention of wrongdoing rather than at the punishment of the wrongdoer. We might set about to see that more opportunities of reasonable recreation are provided, and to find out wherein and why our present provision fails. Employers might take a greater interest in their



workers, and if they sought to learn from them would be in a better position to teach them. The Churchman might easily come more closely into contact with some less fortunate member of the congregation and give kindly aid and counsel ; or receive it, perhaps, where he would least expect it. All of us might see, if we looked a little less to our own business and pleasure, that there are many around whose struggle is a sore one, and whom a friendly interest would help far more than any gift. Many there are who, although neither able to pay nor to pray, could do much good and gain much by personal service. It would help as nothing else can to a better understanding between us and our neighbours, and a more acute apprehension of the evil surroundings in which so many are compelled to live.

Men go wrong and keep wrong for the lack of good fellowship ; and the conditions which keep them struggling in a crowd hinder the fraternising of man with man. The man who is comfortably seated in a theatre has time and opportunity to look around him and to observe his neighbours if he choose. He will not be uncivil to them, even if he take no interest in them. Put him in a crush at the door, and in the effort to get into the place or out of the crowd, he will not have the chance, even if he had the will, to keep his elbow out of the ribs of his neighbour, though that neighbour were his dearest friend. How many are crowded together struggling to get out of the welter and too busy to take much interest in others ! I do not forget that there are many good people who are interested in the poor and fallen ; but it is those who are in danger of falling that get least attention. There are mothers who are struggling on to save their sons from the ruin to which they are tending, and children



who are trying to redeem their wayward parents ; in face of all failures striving with a patience as admirable as it seems futile ; but there are few to help. Let a father turn his daughter out for her misconduct and shirk his duty as a parent ; let her go headlong to the gutter ; and when she is sufficiently stained there will be rescuers tripping over each other to aid her. The pity is that so often they should be more interested in trying to make people conform to their ideals than in helping men and women for their own sake. Most of us have not been so brilliantly successful in ordering our own lives that we are justified in directing the lives of others ; but by interest in those who are having a harder struggle to live than has fallen to our lot we may not only encourage the individual to better effort, but we shall see more clearly what needs to be done by us as a community, not to make men, but to remove those conditions which tend to enslave them.



## CHAPTER V

### AGE AND CRIME

The inexperience of youth—The training of boys—Case of a truant—Another case—Intractability—The foolishness of parent and teacher—The absence of mutual understanding—Recreation—Malicious mischief and petty theft—The cause thereof—The need for instructing parents—Pernicious literature—The other kind—The modern Dick Turpin—The boy as he leaves school—Amusements—Repression—Blind-alley occupations—The Adolescent—Physical strain of many occupations—Unequal physical and mental development—The street trader—Hooliganism—Knowledge and experience—The perils of youth—Old age.

**T**HE great majority of those who enter prison for the first time are young persons, and in many cases they do not show any great degree of moral turpitude. "As the twig is bent the tree is inclined," and what might have been merely a phase of recklessness or a passing mood of lawlessness is sometimes made a fixed habit as a result of the way it has been treated. The younger the person the narrower is his experience, other things being equal. In making the experiments which give experience we may hurt ourselves and others.

There are some who are content to accept the statements of others and to yield an easy obedience to those over them, but in early life the number is not great; and where the elders are too busy to pay much attention to the young there is a greater need for the boy to find out things for himself. Rules of life as they are presented to many boys consist of a series of pro-



hibitions, and it is not always the worst boys who kick against them. Wild and intractable boys do not always grow up into bad citizens; but if they are taken in hand by the penal machinery of the State there is not much chance for them. They may imitate the showy vices of their elders not because they are vices, but because they are showy. They do not admire the wrong things more frequently than grown-up people, but they show their admiration in a way that is sometimes awkward both for them and for us. They are misunderstood and condemned when they persist in going their own way, although the cause of their vagaries may be simple enough if an attempt were made to find it. X 20 was a boy of ten, the son of a man in a comfortable position who had lost all control over him. The boy had run away from school, and had left his home more than once and gone wandering in the country. His father had coaxed and beaten him alternately without any beneficial result. His schoolmaster informed me that the boy was usually quiet and tractable, but did not take much interest in most of his work. He was not of defective intellect and he would not apply himself to some parts of the school course. He was fond of animals. I found him suspicious and reserved; but as he had been told that he was to be seen by the prison doctor, and as he evidently had expected to be confronted with an animated bogey-man, there was nothing surprising in that. He answered questions in monosyllables or not at all, but he promised that he would come himself to my house and see some things which I thought might interest him. I would not allow him to be brought to me, though he lived some three miles off, and he kept his promise and came. With the aid of some other juveniles he was made to feel at ease, and I found



he could tell a good deal about animals, such as tadpoles and frogs, and that he had a real interest in such things. He came back several times, and in an indirect way he was advised of the danger of doing what his father had objected to ; but it was perfectly evident that his conduct had been the result of the way in which he had been treated, and fear had caused him to commit at least some of the actions that had given cause for complaint. Those who had charge of him were more in need of direction than he was ; for they had acted on the assumption that they understood what was best for him, whereas the fact was that they had not the faintest idea of the disposition of the boy, and were simply driving him to extremities in their efforts to keep him right. They were repressing instead of directing his tendencies, with disastrous consequences. His schoolmaster understood ; and he was permitted to act on his knowledge with satisfactory results, the parents never having thought that he was as likely to be able to instruct them as to teach their boy. In this case the boy was fortunate beyond many others in respect that his parents were able to seek and obtain advice when they became alarmed because of his behaviour. They were in a position which enabled them to give him the necessary attention when they learned what was required.

X 21 was a boy who had developed the habit of playing truant from school and had come under the observation of the attendance officer. He was in danger of becoming an associate of city undesirables. His mother was a decent widow who had to support him and herself by casual labour. She was obliged to go out in the mornings to clean offices and he was left to himself. She was loth to have him sent to an Industrial School, but she preferred that that



should be done to running the risk of having him get into the hands of vicious persons. There was no question as to her rectitude, and as little of her ability to look after him when she had the power ; but she could not be out working and at the same time be discharging her maternal duties in guiding him. So he had to be sent to the institution. In a case like this—and they are not uncommon—it would be far better to free the woman from the need of leaving her child and see that she looked after him. She has a greater personal interest in him than any official person can have and it need cost no more ; while the gain in character cannot be measured in terms of cash. The mother's burden is greater than she can bear, and that is a reason for relieving it ; but it is no reason for breaking up the family and loosening the tie between parent and child, and the practice cannot even be justified on the score of expense.

Boys get the name of being bad when they are intractable, but bad boys are fewer than bad men. There are too many people who are driven to assume that they know what is best for the boy—or the man—and that without making any attempt to understand those for whom they prescribe. When a boy rebels against the line of action laid down for him it is taken as evidence of his wickedness, though it may only show his good sense. He may be doing the wrong thing with a purpose more reasonable than that of his mentor, but he is likely to find that his intention will meet with no sympathetic consideration even if he reveals it, and his action will meet with punishment if he owns it. He is encouraged to lie in the hope of pleasing his master, and when he is found out his iniquity is magnified.

Boys are far more given to the attempt to find the



point of view of those who are in authority over them than grown-up people are to find the standpoint of the boy; and children will often show a deeper knowledge of their parents than the parents have of them. If instead of assuming knowledge and showing ignorance parents would try to understand, there would be less disposition to rule the young by general prohibitions and a freer hand given to them in the choice of their pursuits. Left alone, the child will show its bent; it is not for the parent to thwart its aptitudes, but to direct them into useful channels. Many are made miserable by being set to books, and others are made equally wretched by physical drill. Every year brings forth its own fad. The adult may keep free from its tyranny to some extent, but let it find a place in some code or other and every juvenile runs a grave risk of being subjected to it, because someone in authority who knows nothing about him or his needs has so ordered it.

The boy is kept at school for nearly as many hours in the week as many men work, and when he is set free from its restraint he runs wild—if he is not too tired, or if he has not been set tasks which cause him to work overtime at home. He gets into mischief, and is denounced for his misdeeds and the trouble and annoyance he causes; but boys are not more mischievous than they were. There are few adults who have not been a great nuisance to others in their own early days, but too many of them seem to have forgotten all about that. By all means let the boy who has played some mischievous prank be restrained and corrected, but in choosing the method it might not be a bad plan to remember the exploits of a boy who was no better in his day than the culprit is, if no worse. When we show that we recognise a clear



distinction between cramming juveniles with knowledge and educating them, they will learn at the school how to amuse themselves without annoying others. At present they are in this respect left mainly to their own devices, and in very few cases is there any serious ground of complaint against them. Considering their imitative tendencies and the incitements many of them have towards wrongdoing, it is wonderful how few go far astray.

When a boy is sent to a reformatory he has opportunities given him for play, and the importance of providing different forms of recreation for him is not ignored. This is by some called "putting a premium on wrongdoing," and yet in spite of the reward there are few boys who deliberately adopt a course of law-breaking in order to have the advantages of life in that institution. Either they are too stupid or there is not such a bias on their part towards evil as some would have us suppose. The recreation which forms part of the means adopted to reform the boy who has transgressed might conceivably prevent transgressions if it were placed within the reach of others, especially as the association of boys whose common interest is that they have all been before the courts is not likely to make for their improvement.

Whatever its defects as an educational institution, the school has this to its credit, that a better standard of conduct is maintained than could be acquired by many of the scholars if they were left to grow up under the conditions that obtain in their homes. Now and then someone does a particularly shocking thing, and until quite lately when this occurred the offender was liable to be brought to the police court. Now there is a special court for dealing with children, but as there is no change in the judge or in the officials before



whom the child appears, all that has been gained is his separation from older offenders. This is something to be thankful for, but it is a minor mercy compared with what ought to be done. He is more a subject for treatment by those whose experience enables them to understand children than a "case" to be tried by a magistrate whose traditions are those of the criminal courts.

Most of the charges are acts of malicious mischief or petty thefts. The offenders have got out of parental control or have eluded the supervision of their parents. In some cases the parents are culpably careless or negligent, taking little interest in their children and making their home worse than it need be. They spoil the child without sparing the rod, for the boy is often hammered without mercy when he annoys them. He keeps out of their way and may fall into bad company and bad habits. Most of these boys show evidences of neglect in their appearance; but they are not, though they may become, desperadoes. Others go astray not so much from the culpable neglect of their parents as because, with the best will in the world to guide the boy, the parent is either incompetent to do so from sheer stupidity, or, more frequently, from being too busily engaged in trying to make a livelihood to have the necessary time to give to his care. A smaller number are the children of parents who are quite competent to look after them, but who have failed to keep themselves in sufficiently close touch with them—which is a more difficult thing to do than it seems.

At school the boy may be under good guardianship, but he is away from his mother during the greater part of the day, and he may pick up companions who will not exercise the most favourable effect on him. They need not be bad, but they may be bad for



him. Out of school hours he seeks for recreation, and in the effort to obtain amusement of a special kind he may take what does not belong to him, and be found out and complained of; or not be found out and continue the practice. It is all very simple and not at all uncommon—except in the result. Honesty has to be learned, and some people never learn it; though they never commit crimes. There is a difference between being honest and being dishonest within the law. There are few women or men who have not at some time or other “dishonestly appropriated property,” though they did not express it that way when they abstracted sweets well knowing the penalty if caught. Some boys do not steal sweets, but they steal money to buy sweets; and in the same way others steal money to pay the price of admission to a place of entertainment. Sometimes they break into shops to steal, and they are then young criminals; but this rarely happens when the necessary money can be picked up at home.

In a young person the desire for pleasure is naturally too strong to be at first repressed by a sense of the rights of property. He does not need to be taught that sweets please the palate or shows delight the eye; but he requires to learn that in the long run honesty is the best policy. Children are not likely to steal if they can get what they want without stealing, but they may help themselves when they can if they are subjected to unreasonable prohibitions. Even men and women have been driven far out of the right path through attempts to repress their desires for harmless amusement and to make them take life solemnly.

The dishonesty of children arises not so much from a perverted nature as from an inability to appreciate the importance of honesty. It is a phase that passes



as their experience of the world grows. They can be trained out of it, but attempts to knock it out of them are as likely to knock it into them.

There ought to be provision made whereby parents could be advised, admonished, and assisted in dealing with children whom they have been unable to control. Our Children Courts are not designed with this end in view, and I doubt whether it makes much difference to the child who is sent to one of our institutions that he was sent from one room in the courthouse rather than from another. Our money would be better spent in assisting parents who have the will to do well by their children, but who have not the power, than in taking the children away from them. As for those who are careless of their children, they should be dealt with for their carelessness. In many cases the apathy they show is a consequence of our methods. If, instead of taking the children away from those who neglect them, we trained and assisted them, we should have better parents and better children. If carelessness and callousness were then shown by the parents we could proceed with justice to deal with them for culpable misconduct. At present we are not in a position to do so, since we are not prepared to help them to discharge their responsibilities. We make it easier for them to neglect than to care for their offspring, and if they lose control of them to a sufficient extent we free them from the burden altogether.

The spirit of enquiry and experiment leads many boys into mischief, and some of their malicious acts are the result of it. Men too readily forget that the boy sees things in a quite different light and relationship from them. Some of the housebreaking adventures that look so bad on a charge-sheet appear quite different when the story is told from the boy's stand-



point, and they do not always show such depravity as one would expect. Some boys are always seeking adventures and becoming absorbed in them; others are content to read about deeds of daring, and the works they favour are often crude enough. Occasionally one is taken with a mask and pistol in his possession attempting to rob in the highway, and then we have homilies on the evils of pernicious literature of the "Dick Turpin" sort, which might be more convincing if the homilists were themselves free from connection with stuff that is worse.

The adventurous boys are not those who read much of any kind of book; they are too busy living. The "Blood" is devoured more by the boy who dreams rather than acts; but of the thousands of men who as boys read prohibited books and enjoyed them, few are likely to spend much time on the equally sensational publications that circulate in millions among adults. On the whole, the boy will not get a more distorted view of life from the highly coloured papers he reads than he would obtain from some of the newspapers; and when he is being condemned for his preference for "Bloods," it would not be amiss to remember that these productions have never set themselves to foment in his mind feelings of ill-will against people of other lands. It is not the boys but the adults who are raised by the papers they read into hysterical outbursts of senseless rage or equally senseless fear now of one and now of another continental power; and if "literature" is to be judged by its apparent effect, then these papers are more pernicious than the "Bloods," which the boy prefers to the books which are designed for his moral instruction. There is no comparison between his highwayman—a boy's highwayman who robbed the rich and gave to the poor, to the



inversion of all social order—and the industrious apprentice who married his master's daughter, poor girl. The hero is a hero to him because he dares all risks, is true to his friend, is gallant and generous, and faces death with a brave heart. If he does the wrong thing he does it in the right way, and it is not the thief but the man who gains the boy's admiration. As for the industrious one, even a boy knows that there are not enough masters' daughters to go round; and if he revolts at the selfishness of the gospel of getting on, he is right in rejecting such a false basis of morals. We know that the boy's Robin Hood or Dick Turpin never existed in fact; but if they exist in his fancy?

To those who denounce them these papers are only a glorification of theft of a particular kind, but there is no likelihood of its ever coming into vogue again. Dick Turpin is now a company-promoter and his cheques are in demand by Churches and political parties. He does not risk his life now, and we are very glad to be taken into his confidence; but the boy has not found that out yet. His books may be ill-chosen, but wholesale condemnation will not mend the matter; and in books, as in other things, it is impossible to tell what is good for the boy till something more is known about him than that he is a boy. When he reads it is safe to assume that he does so because he feels some need is supplied thereby. When its nature is discovered a step will be made towards its better supply, but not before. To take the boy away from the book he likes to a standard author on the ground that it is better for him, is to run the risk of creating in him a permanent dislike for the books chosen.

In the city most of the boys leave school when they are fourteen years of age, and entering on new pursuits are subject to fresh temptations. The



employment they obtain is largely a matter of chance, but whatever it may be, they are less likely to go wrong when engaged at it than when free from it. Their playground is the street, and there is no adequate provision made for their recreation. On payment of a small sum they may obtain admission to the music-halls or the picture-shows, and these latter are largely patronised by boys. That they serve a useful purpose is undeniable, and if the entertainment they offer may not be all that is desirable, it is practically all that is to be had by many. Since it cannot be had freely there are temptations to find the means, and the boy amongst his neighbours who is worst off in respect of money is hardest pressed. It is deplorable that some should yield to the temptation to obtain money dishonestly, but it is idle to ignore the condition of things and neglect to provide reasonable opportunities for the recreation which is required after work done. There are private organisations taking the matter in hand, but their appeal, though wide, is, and must be, sectional. Boys' Brigades in connection with the Churches can only reach a minority of the juvenile population, and the same statement applies to Boy Scouts. There are those who object on principle to both organisations on the ground that they foster the military spirit, but the militarists themselves do not appear to share this view. Boys like to play soldiers, but when they get sense they drop that; and meantime they play, greatly to their advantage. As for the Scouts, they seem to represent an improved edition of "follow my leader," and their uniform prevents their being interfered with while they play. It does none of them any harm to believe that they are saving their country so long as they are really saving themselves, and no greater number of them develop a taste



for a soldier's career later in life than enlist from among those who have never belonged to one or other of the organisations. It may be that the intention of some of the promoters is to feed the army, but that is to leave out of account the boys themselves and the development of their minds. Whatever the intention, the result is good in so far as the interest of the game keeps the boys in healthy exercise.

The most popular of all the forms of public recreation is the football match. Week after week the grounds are filled by tens of thousands of spectators who find in the game they witness not only amusement for the time, but matter of conversation and interest which outlasts the day. Young and old they are mostly partisans, and though their conduct may leave much to be desired, that should not distract the observer's attention from the main fact, which is that they are enabled to find a real interest in something which is at least harmless. There are those who lament the fact that the spectators are not players, and who condemn them for being merely vicarious partakers in the game. As a matter of fact, a good many of them have played, and some of them have got into trouble for playing. A very little acquaintance with the facts would make the Jeremiahs aware that there is no public provision made for allowing very many to play; that a great many who enjoy seeing others play have no time when free from labour to practise much themselves, even if a field were near; and that if any large number began to play football in the only spaces open to them—the streets—there would be no room to get about. It is not a bad plan to consider men's limitations before condemning their pursuits, but it is too little practised.

The football match is a strong counter-attraction



to the public-house or the aimless wander through the streets, and the football field would be an admirable playground for many of the young, as they would readily admit; but those who want them to play rather than to look on are never very prominent when an attempt is made to find them the means. Some of them use the public streets for a practice ground, greatly to the annoyance of the passengers and sometimes to their danger. The nuisance has to be stopped and the usual method is adopted; the universal panacea for all evils is applied, and the culprits are taken in charge by the police. A small fine is inflicted, with the alternative of imprisonment if the lads are over sixteen. I have seen a batch of them brought to jail because their fines had not been paid. All that had been done was to ensure that these boys would not play football in the streets for several days; yet the cost of their escort and board during that time, if expended on the hire of ground, would have provided them and others with opportunities of play for six months; and they do not play in the streets for choice—at least it has not been demonstrated that they do.

Alike in work and in play the boy's pursuits are largely matter of chance. He has to seek employment and is generally ready to take anything that presents itself. Some of the situations that offer most attractions to him are of such a character as to prevent him from applying himself to work at which in his manhood he could earn a living. In the beginning he may earn more money at these occupations than he would if apprenticed to some skilled handicraft, but before many years he is cast off by his employers, unsettled by his work, and less fit and less inclined to spend time in qualifying either for a trade or a profession. There are far too many blind-alley occupations open to boys,



and they should be closed to those entering on industrial life. There are many men who by advancing years are shut out from the work they have been accustomed to do ; they are leaving the ranks of the skilled workers, and they could do the work at present done by lads with advantage to the community, since there would not then be numbers of young persons spending the most receptive years of their life in occupations by which they cannot hope to earn their living when they reach manhood.

As the boy grows to adolescence he tends to get further from the control of his parents. His growth implies change in him, and he may develop new needs and new desires without the power necessary to control them. It is well recognised that in adolescence there is a special liability to physical or mental breakdown, and short of this it is no uncommon thing for young people to show a degree of instability that alarms their friends for their safety. Yet in youth there are very many employed at occupations that are in a marked degree physically exhausting. They are permitted to take far too much out of their body, and though they may thereby develop their muscles, they are almost certain to hinder the healthy development of their minds. The State has interfered with some trades and prohibited certain processes of manufacture on the ground that the chemicals employed affect the health of the workers in an injurious way ; and it has laid down regulations for the proper sanitation of workshops. It will yet have to consider the advisability of limiting the amount of physical energy that a man may be allowed regularly to expend in work, and the sooner it begins with lads the better for everybody. At present we hear of the large wage earned by workmen in certain trades and their notorious



improvidence. To anyone with eyes to see their improvidence is not more evident in the way they spend their wages than in the way they earn them ; for their lives, industrially, are short, and they are too often physical wrecks in middle life, partly from the undue fatigue to which they have been subjected and partly from vices they have contracted in the attempt to stimulate themselves when fatigued. We only hear of the vices, but their industry is equally foolish if it implies excessive expenditure of vitality ; and no income in money would justify the cost at which it is obtained.

Time and again there come before the courts young men who are neither insane nor weak-minded, but whose mental powers have been stunted and twisted by the conditions to which they have been subjected. They are not there for committing offences against property, but for startling the district by some atrocious assault ; and there is this point of similarity about them all, that they have been engaged at work which was too heavy for them, and when set free from it have used the strength of a man incited by a man's passions to do things that only a boy would conceive.

Equal mental and physical development is rare in youth, and in practice everybody recognises the fact. There are some big lads who are young for their years and little ones who are preternaturally old-fashioned ; but time mends the matter, and a balance is established if something does not occur to mar the youth meanwhile. Placed under conditions that favour the development of muscle and prevent the development of the mental powers, young men cannot be wholly blamed if now and then they shock us by showing the natural result of such a course of training.

About the streets of the city there are lads who take



care not to work too hard. Many of them are the children of parents who have never exercised much care over them, and in some cases they have been sent out with a few coppers to purchase papers and sell them ; or to beg. They have learnt to like the life and have deliberately adopted it themselves in preference to other employment. They come to prison sooner or later if they escape the reformatory ; and sometimes after they have been there. There is only one opinion possible among those who know the facts about the street-trading they carry on—that it should be abolished ; and the only real difficulty is that its abolition ought in justice to be accompanied by some provision for the employment of those young persons who have been engaged in it. The newsboy is a great convenience to the public and the newspaper owners. He sometimes is an important aid to his family, for in a proportion of cases the parent is as respectable and as anxious to take care of the boy as anyone could wish. It is her poverty that compels her to use his services. But the risks to the boys outweigh all advantages. The poverty that compels a mother to subject her child to such risks ought to be relieved ; the public and the newspaper proprietors would find other means of obtaining and delivering the news if they realised the cost of the present condition of things ; and a nursery of criminals would be removed.

In most cases the parents require more attention than the boys, and especially the female parent. The children are her peculiar care, and if she takes to drink the results to them are serious. Whatever differences of opinion there may be as to the hereditary transmission of intemperance, there is no room for doubt as to its effect in causing the mother who is subject to it to become an inefficient guardian of her child.



Her family suffers from neglect, and they are driven on the street to pick up a living as best they may. When they can they may take lodgings in a "Model," and in any case they learn from others how they may live with most license. They are nearly all gamblers, and honesty is not a virtue that they find profitable.

The fact is that there could be no worse school for a boy than the street and no worse companions than those who live there, not because they are gifted with any additional dose of original sin; they are no worse mentally, morally, or physically than many others; but because a tradition has grown up among them that is anti-social in its character, and like the rest of folks they conform to the conditions in which they find themselves. When they loaf or steal they do it because they believe that it is easier and more profitable than working in a regular way. Show them that they are wrong and they will modify their opinion and their action; but that is precisely what is not done. They have heard all you can tell them, and they adhere to their own standpoint not because they are more stupid than their teachers, but because they see another side to the story. When they are imprisoned they are not generally intractable, and they do what they are told because it pays better to obey than to rebel; but outside, though they recognise the inconvenience and risk of being caught, they have a not unjustifiable belief in their power to dodge those who are watching them, and at the worst they prefer to serve a term of imprisonment once in a while rather than exchange their way of living for another. It is just as well to recognise the fact that they do not follow their objectionable courses because it is difficult to do so. When they are dishonest it is usually because they believe it is easier for them to pick up a livelihood



that way than by any honest occupation within their reach or experience. Their opinion may be right or wrong, but it is formed on a knowledge of a different set of facts from that within the ken of those who judge them; and it does not help to a better understanding of them that we should assume that they are greater fools than we are, though we do not share their follies.

Now and then there are outbreaks of savage violence on the part of young lads in the streets; acts which, apparently purposeless and certainly cruel, shock the citizens and anger them. Then there is a cry for vengeance; never an attempt to seek the causes of the trouble; and the matter is forgotten when a few of the offenders have been given "exemplary punishments." Exemplary punishments always repay examination, and sometimes the hapless individual who is made the whipping-boy for others has been rather cruelly treated; not that that seems to matter if the offence complained of ceases, for it is taken as proof that the authorities have done the right thing in making an example of him. The assumption is one that never bore examination at any time, but it seldom is examined.

When a crop of offences of a similar kind startles a district there may be a common cause found if it is sought for; and when the offences cease their cessation may be found to have some relation to that cause; but the arrest and imprisonment of one here and there as examples have as little relationship to the cessation of offences as prayer had in the stopping of an epidemic of cholera. In the one case you have to break up the association of offenders and destroy their spirit; in the other you have to attend to your drains and your sanitation. The punishment and the prayer in either case may assist in so far as they direct attention to the need for right action. How then do these out-



breaks originate, and what causes them to cease? In the first place, they are not the work of professional thieves, though these take advantage of them. They begin in horseplay among the lads at the street corner. None of them may be abnormally mischievous or wicked, but a crowd has a spirit of its own which is different from that of its members. Everybody has seen dignified citizens under the excitement of, say, an election, when they got the news that the country had been saved in the way they desired, behaving in a sufficiently ridiculous manner and inciting others to a like behaviour. If they had received the news when at home it would at most have caused a smile, but in a crowd one has stirred the other to do and say things that neither would ordinarily do or say.

An orator may sway a crowd and utterly fail to move the members of it if he spoke to them individually. The lads at the corner will do things when they are together that none of them would think of doing if he were alone. Not only does each incite the other, but all incite each one to action. The horseplay is extended and indulged in by them at the expense of passers-by, and to their annoyance. If it stops there no noise is heard about "Hooliganism"; but if the lads, letting themselves loose, go further and injure a respectable citizen there is complaint. The culprit is at first frightened, but having done the thing he tries to make the most of it, especially if he sees his companions rather admire his temerity. He boasts of his daring and excites emulation. One tries to outdo another; other "corners" hear about and imitate the desperadoes; the newspapers take the matter up; and the place is in a state of terror. There is reason for the terror, too; for in the process unoffending and peaceful citizens have suffered serious injury. The



professional criminal, who is quick to take advantage of any chance, hangs on to the tails of the foolish lads, and under cover of their depredations helps himself to what he can get. Anything that gathers a crowd helps him, but he knows better than to commit assaults of this purposeless kind himself. He has no objection to rob the assaulted or the threatened and terrorised parties, however, provided he can conceal himself. If he can get any of the lads who began the proceedings to assist him, good and well; but in that case they may find they have started on a new and criminal career. The loose cohesion between the mischievous and the criminal elements in the crowd becomes organised; and by this time there is a general demand on the part of the citizens that somebody should be punished. Then the examples begin.

But the very fact that the outrages have been advertised, while it causes their imitation at first, makes parents and employers enquire into the conduct of their sons and their workers. The lads are kept in at night, or they are otherwise separated from each other. When the association begins to break up the process is not long before it is complete. Everyone who leaves it is suspected of being a possible informer, and the dread of they know not what—the most powerful kind of fear—invades their minds. The conduct that seemed so laudable is now given up and the epidemic dies out. To send one of the offenders to prison is simply to make him a martyr in the eyes of his associates, who know that he is no worse than they were and who sympathise with rather than abhor him. The real deterrent is the action of the parents and employers who know the lads. They neither want to get into trouble at home nor to lose their jobs. Those who are sent to prison have often little to do with the



matter, and their exemplary punishment has less. Real hooliganism—the existence of young professional thieves who are in the habit of committing brutal assaults and inflicting injuries recklessly on their victims—is rare in Glasgow.

The young person is more likely to fall into error than his elders because of his inexperience. Whatever the law may hold, no business man expects the kind of service from a youth that he looks for from a man. The young man may have more knowledge than his senior and more recent information on many things, but only time can enable him to co-relate his knowledge. The question whether a lad knows right from wrong is all that some people will consider ; which shows how little they know, if they really believe that the answer will enable anyone to assess a man's responsibility. We are taught "right and wrong" from our earliest years by way of principles to guide us, but they are not always easy of application. The difference between a young and an old man is one of experience. Practice has enabled the one to use his knowledge in a way that the other has yet to learn. Our conceptions of many things on which we have been given information apparently full and accurate have been proved time and again to be quite wrong ; experience enables us to discount our anticipations, but it only comes with years. In judging young people it is specially necessary to bear in mind the fact that with all their apparent knowledge they may have totally wrong conceptions of things, and that thus they have been misled. On many occasions I have had to note the fact that a young man had committed an atrocious crime ; that he knew perfectly well it was wrong ; that it was not due to imperfect powers of control ; that he had brooded over and visualised it before the act ; and that



its accomplishment had left him shocked beyond expression, for it was all so different from his conception of it.

No punishment could intensify the shuddering horror with which these lads regarded their own acts, "so different from what I thought it would be"; and yet in ordinary affairs we are well acquainted with the phenomenon. Why we should lose sight of it when a crime has been committed and we are seeking to unravel the causes is a mystery. Know right from wrong? Yes, and conceive the whole matter wrongly. This state of mind is not peculiar to the criminal, and may sometimes be present in those who take upon themselves to judge and condemn him.

In early life a lad is not only more liable to go astray, but having fallen it is more difficult for him to recover. He is more impressionable, and the impression of his crime and of the way in which he has been treated stands in his way. He has no record of experience behind it to which his memory can turn and by which he can be helped to seek the right road when he leaves prison. "Learn young, learn fair," is as true of crime as of other things.

At the opposite end of the path of life a special cause of crime is degeneration of the physical or mental powers. In the first case the man may become destitute and forced into criminal courses in order to gain a living. In the latter case he may develop tendencies and commit certain offences that are quite at variance with his former conduct.

As a result of senile changes in body and mind some old men offend against the law. When the condition is marked they are dealt with for it, but in some cases it is only suspected and is not capable of proof. It is simply a question of whether they should be sent to prison or to a lunatic asylum.



## CHAPTER VI

### SEX AND CRIME

The position of woman—The posturing of men—Love and crime—Two cases of theft from sexual attraction—The female thief—Case—Blackmailing—Jealousy and crime—Two murder cases—Case of assault—Fewer women than men are criminals—Their greater difficulty in recovery—Young girls and sexual offences—Perils of girlhood—Wages and conduct—Exotic standards of dress—Ignorance and wrongdoing—The domestic servant—Her difficulties—Concealment of pregnancy cases—The culprit and the father—Morals—The fallen woman—Bigamy.

**F**OR good or ill great changes have taken place, and more are likely to occur, in the relative social and political positions of the sexes. Women are excluded from political power on the ground of their sex, and by way of opposing or of justifying this condition of matters everything but sex is discussed. It has been shown that woman is as clever as man; pays her rates at least as promptly; can work as hard and at as varied occupations; is capable of outstripping him in learning; shows as much intelligence; is more moral; and can sometimes be a greater nuisance to her neighbours. All which may be a very good reason for giving her a vote, but does not alter the fact that there is a great difference between the sexes. That may be no reason for excluding her from a share in the direct election of representatives to Parliament, but it is a fact that cannot be lost sight of and which seems to be forgotten



when it is not deliberately minimised by both parties to the controversy. Man is something more than his brain, and so is woman. Indeed, their thoughts and their acts are often the outcome of the condition of their other organs ; and the attraction of one sex for the other disturbs most frequently the calculations of observers. Among the primitives in our own country the principal subject of interest, after their means of subsistence—and occasionally before even that—is the opposite sex ; and if one may judge by the books in greatest demand, those whose opportunities are more varied are far from indifferent to the same subject. The young man who is not stirred by desire to excite admiration in some girl—perhaps in all girls—is an exceptional being ; at least he feels uncomfortable in their presence.

The love of attracting attention is very common, but while it causes men to do many strange things to obtain praise from their own sex, it much more frequently moves them to extraordinary actions in order to secure the admiration of women. Whether men or women are most moved by this feeling it is impossible to say, but the men are more likely to make fools of themselves. Their present social position gives them greater opportunities to do so ; for the woman's training and traditions are against her openly giving way to her feelings, and when she does so the result is apt to be disastrous. It is the commonest thing in the world to see young people posturing to attract the attention of those of the opposite sex, and their feelings may blind them to the consequences of their conduct.

A too intense interest in anything else is fatal to business, and the rule has no exception in favour of the amorous ; so it is not uncommon for a lad to lose his place through inattention to his work, the result



of preoccupation in his love affairs. In some social stations this condition of mind may lead the lad into criminal courses. X 22 was an intelligent lad who had drifted into crime and continued in it. He had not offended against the law as a boy, though he had passed his early years in a part of the town where the sights are appalling and the prevailing tone of morals is low. He spent the later years of his boyhood in a suburban village and went to work in that district. When he was about seventeen there was an epidemic of "club dancings"; that is to say, places where a number of young men, having hired a room and a fiddler, charged others a small sum for admission to dance—girls being admitted free—and divided the profits or the losses among themselves afterwards. The dancers were usually the sons and daughters of respectable people, but their behaviour after the dance was not innocent. The more ardent among them became passionately addicted to the practice of attending such places and dropped both work and reputation in the process. The scandal of the thing ultimately became so great that under the pressure of public opinion the "clubs" were discontinued. At one time they were many in number and spread over a wide area. The young man of whom I speak was an enthusiastic devotee and went far afield at times to seek his pleasure. Working from early morning and dancing till late at night, it was morning again before he got home. He could not possibly keep up both the work and the pleasure, and the work had to go. He had to find money, and he got it dishonestly at less fatigue than by work. This had its end and it finished him. After being in prison he found the door of some of the clubs closed to him, but there were others. He did not escape so readily now when he stole, being known; and gradually



he was shut out from the pleasures that had led him astray and shut into the company of those who, like himself, had been in prison. He was only one of a number whose downfall was attributed to dancing ; but he had not the slightest doubt that if the dancing had been between those of the same sex it would never have led him off his feet. It was the sexual element in the matter that attracted him.

In this case the man lost his regular employment through absorption in his pursuit of women, but in many more cases the situation is forfeited through dishonesty caused by the desire to make an impression on some girl or to provide for her. X 23 was a lad of good character, quiet in his manner, well educated, and employed in a position of trust. He was serious and sober in his walk and conversation, and appeared likely in time to become a pillar of the Church and a model citizen. He was attracted by a girl who was of good reputation, and there was never any suggestion of improper conduct on the part of either of them. She lost her situation through no fault of her own, and he placed her in a house which he furnished at the expense of his employers, expressing his intention to marry her later. There was no improper intimacy between them. Those who knew him were surprised that he should be able to make the provision for her that he did—surprised also at his choice of her as a wife ; but that is not an uncommon attitude on the part of friends—and equally surprised and pained when it was discovered that he had used money which was not his own in order to set up the establishment.

It would be easy to multiply examples of cases where the relations between the parties are less innocent, and to show that not merely young men, but men who



are advanced in life, have been driven by the attraction of the other sex to sacrifice their position.

Women are not ignorant of their power, and the criminal among them know how to use it to advantage. Because of their sex they are able to commit many thefts and to escape with impunity; indeed, a very large proportion of thefts from the person are committed by women, or with their assistance. They attract the man, go along with him, pick his pocket, and find some excuse to get rid of him in a hurry. When he discovers his loss they are out of reach, and in the great majority of cases he says nothing about it to the police, as to do so would cause scandal about himself. Only when the loss is too considerable to be borne, or when something is stolen that cannot be replaced, is the theft reported; and even then it is difficult to convict the thief. X 24 is a girl of twenty-six who has several times during the last eight years been convicted of theft. She is a buxom and cheerful young woman, neither a teetotaler nor intemperate, shrewd, and possessed of a considerable share of intelligence and humour. Brought up in a slum district, she was early at work; and when she began her present career she was earning honestly about fourteen shillings weekly. Some time ago I was asked to see her on behalf of a lady who had taken an interest in her from her appearance in court, and who was willing to help her to a better way of living. She was perfectly frank with me, and declined assistance on the ground that she could do better for herself. She said that with very little trouble she could make twice the amount to be gained by work, and with little risk. "You ken weel enough, doctor, that the lady could do nothing for me. She would put me in a place among her servants, maybe, and that would be a nice thing for the servants!"



Na, na. When I find it disna pay I'll gie it up. As long's the drink disna get a grip o' me I'm a' richt; and there's no much fear o' that." Like others of her class, she does not live by prostitution, though her sex is her decoy. She has no prejudice in favour of chastity, but she takes very good care to run no unnecessary risks, and will find a means of getting away from the man she may pick up—if possible with his purse, but if not, then without it—before matters have proceeded to an extremity.

Others acting in concert with male accomplices lure men to houses where they are bullied and robbed; and this goes on with a degree of impunity that would be amazing, were it not for the fact that though the practice is well known, there are few of those who have suffered loss of money who care to add to it the loss of reputation that would result if they had to appear in court.

Blackmailing is another practice that springs from the conduct of both men and women influenced in the direction of vice and crime by sex impulses; and jealousy is a powerful factor in the causation of some crimes of violence. Jealousy is not generally looked for on the part of those who are themselves loose in their conduct, but among them it may exist as intensely and manifest itself as powerfully as in any respectable citizen. It seems to be largely a matter of temperament, and to be to some extent existent apart from the desire for exclusive possession. X 25 was an ex-soldier married to a woman of low morals. They had both been loose in their behaviour and were both given to drink. He had on several occasions assaulted her for her infidelities, but he admitted that it was not jealousy that had caused him to do so; and he owned that he was just as bad himself. He went off to the war, and in his absence she



behaved very badly and took headlong to drink. She lived with another man. On his return he took up house with her, and the other man was a source of quarrel between them, especially when they were drinking. He was admittedly jealous, though there does not seem to have been any but a retrospective cause for the feeling. One day in the course of a quarrel she compared him with the other man to his disadvantage, and he savagely set on and killed her.

X 26 was a sailor who was attached to a woman whom he knew to be a prostitute. When he came to Glasgow he lived with her, quite well knowing her character. He spent his money freely on her, but could not keep her from her associates. One night she insisted on leaving the house where they lodged. She had been drinking heavily, and he tried to detain her. She insisted on going to the lodgings of another man whom he knew ; and when he endeavoured to persuade her to remain where she was, she made a comparison between him and the other that set him in a blind fury of rage and jealousy, in which he killed her. The cases present similar features: a tolerance of general infidelity; a jealousy of a particular individual; and an explosion when the other was praised for certain qualities.

The same kind of thing has occurred with women. One day in the airing-yard of the prison a woman who was usually quiet in her behaviour made a sudden attack on another who had been admitted to prison on the preceding day. It transpired that the assailant had heard that the woman she assaulted was living with "her man." The man was a bloated blackguard whom she had screened by pleading guilty to a charge of theft in which he was implicated. She herself was a prostitute, and when I pointed out that morally he could not be worse than she in that respect she



admitted the fact, but added furiously that she would not allow that — to take him from her ; although she was ready enough to recognise his worthlessness. It would be easy to theorise on these cases, and it might be interesting ; it is well to note them, for they show that crime may result from passion in circumstances where it might not be expected.

The fact is that feelings the result of sex strike far deeper and wider than many good people care to acknowledge ; but the whole subject is one on which a taboo is placed and it cannot be treated as frankly as it ought for that reason. The cause of jealousy and the excitement of the feeling is not so simple as many seem to think. It may be absent where there would appear to be the strongest ground for expecting its presence, and present under circumstances where it would not be looked for ; and when present it may induce criminal acts on a provocation that would appear small indeed.

There are fewer female than male criminals and offenders, but they are more likely than men to continue in the wrong way when they set out on it, for it is more difficult for them to recover. Women are much harder on one another than they are on men ; or than men are, either on their own sex or on women. This may be one reason why so few of them go astray, but it also contributes to keep the stray sheep from getting back to the fold. The girl is more closely guarded at home and is more intimately associated with her mother than the boy is. Even mothers who have gone to the bad do not always want their daughters to follow their example ; and I have known those who lived by vice and crime who have sent their daughters away from them in order to be trained in religion and morals. Most of them cannot do that, but many do



what they can, up to a point, to keep them straight. A girl suffers more than a boy from the neglect of a mother, and when to neglect is added bad example it may have a fatal effect on her. In proportion to their numbers there are more daughters than sons of criminal mothers who take to evil courses.

Apart from the mother, there are districts of the city where girls hear language and see sights that are not likely to have a good effect on them. The girl is taught to repress herself more than the boy and is trained towards secretiveness. The boy is rather given to flaunt his new-found naughtiness and to be checked for it or to discover of how little account it is. The girl may nurse it to her harm. It is a mistake to suppose that because a man or woman never uses objectionable language, or repeats objectionable stories, they have not left an impression when heard. As a matter of fact, the female side of any lunatic asylum is generally more remarkable than the male side for the foulness of the language of the inmates and the filthiness of their ideas. Among the sane members of the community the opposite is notoriously the case, but the insane are only repeating words that have lodged in their mind when they were sane. The same thing is true of female offenders; they outdo the men in the profanity and indecency of their language, when they begin.

When as a result of their surroundings young girls take to imitating their elders in vice they are much more dangerous than boys. Every surgeon in a great city, if he is connected with the administration of the law, knows that very young girls are sometimes made the subjects of horrible assaults; but he also knows that other girls as young incite and provoke assaults, and that some among them make the most terrible and detailed charges against men on no foundation



whatever but that of their own imagination excited by what they have seen. When men are guilty of certain offences under the Criminal Law Amendment Act there can be no defence of their conduct ; they have no excuse for taking advantage of young girls ; but it is sheer folly to ignore the fact that there are girls of school age in some parts of the city who deliberately importune men. It is terrible that it should be so, but they are only doing what they see their elders do and there is no use disregarding the fact.

If the street is a bad playground for the boy it is worse for the girl. She runs greater risks and her ignorance is as vast as his. When she goes to work new perils beset her. Her choice of occupation is more restricted, and her wages, though they may not be less in the first instance, do not increase in the same ratio as she grows to youth and womanhood. Whatever may be said for the higher education of women it is out of reach of the many. Most girls have the idea that some day they will be married ; and they are often right. When this idea is present it is bound to affect their actions. Marriage means for a man the holding on to his work ; for a woman it implies the giving up of her employment—at any rate, in Scotland most men who marry try to keep their wives at home. Among the poorer labourers this is not always possible ; but it remains true that the great majority of married women are not industrially employed. They have quite enough to do at home, and sometimes more than enough ; but the fact that the home is to be their permanent sphere of work, or the hope of this, makes many girls and women careless as to the choice of their occupation meanwhile. It also prevents combination among workers, to a large extent, and tends to keep wages low. How some of them live on their earnings



is a mystery, but they do ; and keep themselves in a condition of health and fitness which will compare favourably with that of many of the scientific people who prove by figures and standards that they don't. There is grave risk in it, however ; risk that they should not be asked to run. If they were not members of a family, each contributing earnings to a common pool, and each undertaking a share of the household work, many could not exist on the wages they receive. That any large number of them are directly driven to the street by the low rate of their wages is not, in my experience, true.

Complaints have been made that the children of well-to-do people accept lower wages and make it hard for those who have to earn their living to obtain reasonable pay. This may be true in a few cases, but it is not of general application. These people do not compete at all in many occupations ; their parents are not foolish enough to let them do much for nothing ; but they do sometimes exercise an injurious influence on the other girls by their presence. Girls are at least as vain of their appearance as lads, and they are quite as much given to personal adornment. Indeed, I think men will readily admit that women pay more attention to their dress and are keener on ornaments than they are. Certainly when one gets a new kind of hat-pin or "charm," others must obtain something to balance it. If a girl has a fund to draw upon apart from her earnings she is likely to dress more expensively than her neighbours, and the weaker sisters are sometimes tempted to adopt extraordinary measures to keep pace with her.

In so far as a standard of dress is set up that is beyond the earning power of the workers to maintain, girls who have other resources than their wages are



liable to exercise an injurious effect on their fellow-workers. X 27 was a young woman of prepossessing appearance and good manner. She had been employed in a place of business in town. Her wages were small, and she had charge of cash transactions to a considerable amount. She was quietly and well dressed. She was arrested on a charge of embezzlement and she admitted her guilt. She confessed that she had begun to take small sums in order to keep herself "respectable," and her peculations not being discovered, she had continued to help herself. There was sickness at home, and to relieve the pressure there she had taken larger sums and been found out. In the course of enquiries I found that there were other employees none of whom had her opportunities of taking from the cash-box, but some of whom dressed themselves on "presents" from gentlemen. There was room for suspicion that each knew what the others had been doing. It was certain that they knew that their earnings were insufficient to enable them to live and dress as they did, and it was equally clear that in their cases they had no resources at home to supplement their earnings.

There are some workshops in which the moral tone is very low, and the association of young girls together in them has a bad effect on their conduct. The ignorance of many men and women with regard to the most elementary physical facts is remarkable. Mysteries are made of physiology, as though innocence and ignorance were synonymous terms. Fear takes the place of enlightenment, and when a girl is seen to transgress the limits of conduct laid down for her without the dreadful consequences they have been led to expect, the others are apt to think they have been misled; and some of them embark lightly on



a certain course of conduct with a confidence begotten of ignorance as great as that which once made them timid. Young people are better to learn the truth about themselves from those they respect and trust, than to be kept in ignorance till some chance reveals a distorted version to them. X 28 was a man of the labouring class who was charged with contravention of the Criminal Law Amendment Act. He had been a very hard-working man, and for years had lived on little and saved the greater part of his earnings. Then, as systematically as he had put the money past, he started to get rid of it. He had nearly £200, and he proceeded to spend about £2 a week on his "spree." He drew the money from the bank in small sums, and, doing no work meanwhile, he proceeded to take enough drink to keep him on the right side of drunkenness. This had been going on for over six months before his arrest. Early in the course of his wanderings he had made the acquaintance of two girls who were employed in a tailoring establishment in the city. They spoke to him and made him certain proposals. This was in the dinner-hour. In time he was introduced by one girl to another during the succeeding four months, till he had dealings with seven in the same establishment—that is to say, seven admitted the facts. Their ages ran from fifteen to nineteen years, and without exception they were all the daughters of respectable parents, to whom the story of their conduct came as a severe shock. That story will not bear repetition; it was exceedingly gross. The facts were only discovered in an accidental way through the illness of one of the girls. She at first denied everything; but under pressure made a confession of part of the truth, and, the charge being laid, enquiry elicited the rest.



A large number of girls are still employed in domestic service, though the tendency has been for them to seek industrial work, where they are for some part of the day their own mistresses. The spread of elementary education has been blamed for the shortage in the supply of servants, but it is only one of many causes for the change from the time when there were more girls seeking work than places for them; and girls are not likely to seek service as a result of the railings of those who, to judge by their utterances, are in need of some elementary education with regard to their own position. There seems to be an idea fixed in their heads that they have a right to be served by others, and that on their own terms. If the schools have taught the girls that they are not born to do for others what they ought to be able to do for themselves, it is something to the credit of the schools. Domestic servants have been too long treated as though they were inferior beings, with the natural result that their work has come to be looked upon as lower in character than that of the factory or the office girl. A greater independence of spirit and behaviour is permitted in those engaged in industrial occupations than in domestics, and this has a good deal to do with the preference shown for these pursuits.

Domestic service is a better preparation for married life than work in a factory, but in spite of this it has very serious disadvantages. It presents the form of family life without the spirit. In a great many cases it has all the disadvantages and few of the advantages. Those who are loudest in their complaints of the degeneration of servants show quite clearly that they are angry really because they no longer get girls to give not only reasonable service, but the obedience of flunkeys. Girls in workshops are not treated as



domestics are ; they would not stand it. Their wages may be lower, but at least they are not looked upon as beings of another creation than those placed over them. When people shun certain kinds of employment it is not generally because they are foolish, but because they believe that that kind of work is not worth having.

The servant in the house is too much in the house. Her mistress is quite ready to assume that she should know all that the girl is doing, but the confidence is expected to be all on the one side. For the mistress to interfere in the girl's affairs is to show a proper interest in her ; but for the girl to return the compliment is impertinence. The girl is often subject to unsympathetic supervision ; she is seldom allowed out to associate with those whose company she desires ; her life is a monotonous and exacting one ; and in many cases she has as few opportunities for seeing visitors as she has for visiting. That some should react unfavourably to these conditions is not surprising ; and when they are out they may show the same tendency to friskiness displayed by that other domestic animal, the family dog. Many of them have few friends near the place of their employment, and their work does not provide them with the same facilities for forming friendships as industrial employment does. If they do go astray the consequences are therefore more serious, because they are to a large extent thrown on their own resources, having few to whom they can appeal for help or advice.

There are no workers who are more generally industrious, honest, and patient, and who are more harshly judged. Only those who go wrong seem to attract attention ; at least it is only they who are heard of ; and in proportion to the large number employed they are few. Their position away from their family leaves



them more exposed to the attentions of those of the opposite sex than other girls, and when they succumb the consequences may be more serious. If their condition is suspected or discovered the extent to which they are considered members of the family soon becomes apparent. The girl who is in this state has no illusions on that subject. She knows quite well that she will receive no sympathy, and that would not matter so much if she were not equally certain that she will be turned out whenever the fact becomes known. She cannot face her people. She fears the scandal she will bring on them, and what she should do is a puzzle to her. What she tries to do is to conceal her condition as long as possible. She knows quite well that a time will come when it will unmistakably reveal itself, but anything may happen in the interval. She refuses to think about the future and lives in the present. The effort that should be expended in making preparations for the event is spent in concealing its approach ; till some day she finds herself a mother. The habit of concealment has become a part of her, and it asserts itself in the state of pain and panic in which she finds herself, with disastrous results to the child. X 29 was a girl about twenty years of age who came from a mining district to domestic service in Glasgow. She was a healthy girl and a good servant. One day her mistress had reason to suspect that something had taken place in the house of which she had not been made aware ; and a search revealed the dead body of a new-born child in an outhouse. The girl was arrested and sent to hospital. In due course she was transferred to prison, where I had to investigate the case with a view to determining her mental condition. She told me the story bit by bit quite clearly. When she became aware of her condition she took



steps to hide it, and up to the end she had been successful in doing so. She did this in order to make up her mind what she ought to do. Sometimes she decided to go home to her friends, and at other times she meant to apply to the parish. Her health was good all the time. At last she made up her mind to go home, and had written stating her intention, but saying nothing about her condition or about staying there. The child was born the night before the day she had fixed for her visit. She was taken by surprise, and had no preparations made for its arrival. By her actions she showed that she knew what was necessary in order to attend both to child and mother. It cried out, and in her alarm she stopped its mouth. It did not cry again, and she next set about its concealment. She knew that she had killed it, but she did not think this murder. She would have thought it murder if it had not just been new-born. She had seen similar cases reported in the newspapers as "Concealment of Pregnancy" and not counted murder. As she had her day off to pay her visit she did so. She walked at least ten miles in doing this. She told her friends nothing. She hoped to be able to dispose of the body, but her mistress had found suspicious signs in her room, and on a search had discovered the child. She was curiously knowing in some respects, but her ignorance was as peculiar as her knowledge; and I had no reason to doubt the truth of her story, which stood such tests as could be applied to it.

The case in its main features is quite characteristic. There are some mistresses who, when they find their servants in this condition, take steps to see that they are tended in some way. They cannot be expected to keep them in the house, but they do what can be done to prevent the mother and child suffering.



There are others who simply turn them out and take no further interest in them ; and it is the fear of this that leads to concealment. If they would even act as mediators between the girls and their people much mischief would be prevented.

Hardly ever does such a case as the above occur but what there are letters to the newspapers demanding that the father of the infant should be placed in the dock with the mother. The mother is not there for begetting a child, but for killing it, and the former act is not yet punishable by law. The general opinion seems to be that men are continually seducing women, and I am not in a position to say whether it is true or not. Judging from books, it forms the subject of many stories, but I am here only writing of that small portion of the world which has come under my own observation, and in my experience it is grotesquely untrue. I have heard the woman's statement in the great majority of cases of infanticide in Scotland during the last sixteen years, and I can recall few in which she made any complaint against the father of the child, although I sought for it. In some cases I was told that the father had not been informed of the woman's condition, although she knew where to find him ; and that he had been kept in ignorance because she did not want to marry him. In the other cases the conception seemed to be the result of intimacy that was temporary and long past. I am far from suggesting that there are no bad men who lead girls astray ; what I say is that in this class of case these are not the girls who appear as criminals.

The fact is that among a certain class of lads and girls there is a degree of looseness of behaviour that is in striking contrast with the officially recognised code of morals. They take risks with a light heart, and the woman pays ; not always because the man



shirks, but because any consequence of their conduct is entailed on her by her sex. The girl knows this as well as the lad, but neither of them considers consequences at the time. An acquaintanceship begun innocently enough may insensibly and by degrees become something more, not as the result of consideration, but quite independent of anything in the way of thought. If consequences were certain it might be different. It is difficult to apportion blame and it is not very profitable to try ; but it is quite certain that the woman leads the man as much as he leads her to misconduct. Child murder is no necessary consequence of his act, and there is no sense in assuming that he knew the girl's condition and deserted her, when the fact can easily be ascertained.

It would be a great mistake to suppose that girls who do not preserve their chastity are necessarily bad. It is largely a question of manners and customs. They would quite readily admit that it is wrong to be unchaste, as many an untruthful person will admit it is wrong to lie ; but they do not seem to suffer in self-respect, nor greatly in the esteem of others, if they yield themselves to the lad who is their sweetheart for the time. Their conduct may be suspected ; but in the absence of proof, and if decency is observed, their morals are taken for granted.

Every professional man knows that there are very many different standards of conduct in Glasgow. The doctor cannot shut his eyes to the fact if he would ; the lawyer during the time he acts as Agent for the Poor sees and hears enough to convince him that the professed and the working standards of conduct are different ; and even among those connected with their Churches clergymen occasionally find some who have to get married as a result of their behaviour.



The girls who misbehave in this way may be reviled as prostitutes, but that is utterly to fail in judging them. That they are no worse than the men goes without saying; but there cannot be a standard for the woman and another for the man, though in practice it is more frequently the moralists who try to make one—not by their words, but by the effect of their judgment. The same girl who has given herself to men is sometimes the most bitter in her denunciations of prostitutes; but on the subject of prostitution I do not propose to enter, for any real consideration of it would involve a plainness of speech on which it would be unsafe to venture.

This must be said, however, that the woman who goes astray is treated shamefully by the law, which operates to drive her deeper in the mire and causes reformation to be more difficult for her than for any other kind of offender. Any proposal to place these poor souls more completely under the domination of officials, medical or police (whether made on the specious pretext of public health or public morals), would intensify the difficulty, and would result, as it would deserve, in increasing the evil it sought to remedy. It is bad enough that any members of the community should become slaves to the vices of others, but it would be worse to confirm them in their slavery in order to protect those whom they serve.

In proportion to the number of offences committed by women bigamy appears to be more common than it is among the male offenders. The reason is largely economic, but the method of its operation is dependent on sex. The woman wants a home, but if she were not a woman that is not the way she would choose to get one. She could get established, but her sense of propriety will not allow her to accept the position



without the form of marriage, even although she knows the form to be illegal. In many cases, however, she does not know this. She may have ground for a divorce by reason of the desertion of her husband or his misconduct; but the ground for divorce and the ability to obtain one are different matters. If divorce is to be permitted there does not seem to be any reason why it should be refused to those who cannot afford to go to law to obtain it. If one of the parties to a marriage gives cause for divorce the need for it will be the greater in proportion to poverty, for people are less able to keep out of each other's way if they are living together in a small house than would be the case if they had more room; and if they are separated the economic disadvantages are not less. Yet these are the very people who are least able to obtain relief; their poverty ensures that. When they go through the form of marriage with some other we pay the cost of their imprisonment. The money would be better employed in setting them free from the contract which has gone wrong. Some of them voluntarily give themselves up in the belief that their imprisonment will break the former marriage. Our judges have become more and more inclined to deal leniently with such cases; reserving their heavy sentences for those which show moral turpitude; and the number of these is small. To the woman there is something in the form of marriage which enables her to preserve her self-respect, and the "marriage lines" are a testimony to others. It is a queer condition of affairs, in their view, that allows them to live with a man if they do not go through a ceremony of marriage with him, and which sends them to prison if they do; for they cannot be expected to see that the rights of property may depend on the prohibition of conduct such as theirs.



## CHAPTER VII

### PUNISHMENT

The universal cure-all—The public and the advertising healer—The essence of all quackery—The quackery of punishment—Rational treatment—Justice not bad temper—Retribution—Our fathers and ourselves—Their methods not necessarily suitable to our time—Capital punishment—The incurable and the incorrigible—Objections to capital punishment apply in degree to all punishment—The “cat”—The executioner and the surgeon—Whipping and its effect—The flogged offender—The act and the intention—Pain and vitality—Unequal effects of punishment—Fines and their burden—Who is punished most?—Punishment and expiation—Punishment and deterrence—Social opinion the real deterrent—Vicious social circles—Respect for the law—Prevention of crime.

**S**INCE newspapers have become great advertising mediums their readers have had information thrust upon them by picture and story regarding the need to flee from ills to come and seek refuge in the patent pill. Health is the great thing to attend to, and there is a large number of people engaged in our instruction. Some will have us see to the equal development of all our muscles, though what we are to do with them when they are developed we may not clearly apprehend. Others prescribe for us all a proper course of diet, and though the professors differ among themselves as to what is the best food for mankind, they seem to be all agreed that there is a universal food. If we find their prescriptions do not suit us, that is an evidence of degeneracy on our part which



must be overcome. It is all very like what has passed itself off as education. At school, if a boy showed an aptitude for drawing and none for composition, he was taken from the thing he could do and worried into doing the thing he was not fitted for doing, with the result that in many cases children left school able to do a number of things equally badly and few things well. The attempt to make people ambidextrous is more likely to make them left-handed in both hands.

Health is the greatest of blessings, but the man who is always concerned for his health is not the healthy man ; time passes, and he may lose his life while he is preparing to live. He is encouraged to examine himself, and all the possible ailments which may annoy him are described and their significance exaggerated till he gets nervous. A specific is found for every ill to which the flesh is heir, and its efficacy is trumpeted till some equally infallible cure replaces it in public estimation. The saving remedy may be called a quack preparation, and its composition proclaimed and condemned by the regular practitioner, but a sufficient number of purchasers is found to justify the expense of advertising it. It is sure to benefit somebody, however antecedently improbable that effect may be, and there is certain to be some sufferer who will be grateful enough to testify to its cure. Some of the testimonials may be spurious, but many of them are quite as genuine as any that the doctors receive. The reader sees that Mrs. Dash has suffered from pains in her back for years, and has tried the patience and the prescriptions of every doctor within her reach without obtaining any permanent relief. She has had to resign herself to a state of chronic invalidism, and is an object of pity to all who know her. She hears from a friend of the wonderful curative effects of the



Rational Rheumatic Regimen and puts herself under treatment, with the result that her neighbours cannot believe she is the same woman, and she herself feels in better health than she has ever before enjoyed. Then follows a list of symptoms which is sure to appeal to some sufferer. The public, knowing all that can be urged against quack medicines, distrusts and purchases them. The buyer knows that the case of Mrs. Dash is not published for philanthropic but for business reasons, but he thinks that what cured her may help him. It may or it may not, but he risks it.

Even those who utterly condemn quack medicines fall quite readily into the error of quackery when they come to discuss social subjects; for the essence of quackery is the belief that what is good for one person must be good for every other. Diseases are not entities, but conditions that cannot exist apart from the man; and similarly crime cannot exist apart from society. We may alter conditions in such a way that the tendency to disease or crime will be lessened; but when a person has become diseased we have to know something more about him than the fact that he shows certain symptoms before he can be treated in any rational way and with a prospect of his recovery. So when he has committed a crime we must know more than that fact before there is much hope of being able to correct him. There is as much quackery in the practice of making punishment fit crime as in that of making remedies fit diseases.

When a man offends against the law he is taken in hand by the ministers of the law; and they are awakening to a sense of the futility of their treatment of him, but so far not much progress has been made towards a rational method. There are more institutions



projected and a greater variety of remedies prescribed ; but they depend on the nature of the crime charged, rather than on the character and condition of the culprit. Some day it may be acknowledged that the court that has to determine whether a person is guilty of the offence charged against him is not therefore the court that is able to determine his treatment, but there will first require to be a more general recognition of the fact that before a man can be treated rationally for any physical, mental, moral, or social fault in him, something more must be known about him than that the fault is there.

I do not suggest that rational treatment will invariably be successful ; there is nothing absolute in this world, not even our ignorance ; but I do assert that we are not entitled to act irrationally in dealing with criminals, and that that is what we generally do at present. The practice of the courts has changed much more than the law during the last sixteen years, and there is a greater disposition on the part of judges to seek information regarding those who are brought before them, as well as a more marked reluctance to send offenders to prison if there appears to be a probability that they will not repeat their offence.

The old theories of punishment have broken down, and it is now difficult to find any coherent theory behind the practice. When a crime is committed that shocks the public by its atrocity there are demands made for fierce retribution on the culprit, partly on the plea that he ought to be made to suffer, and partly for the purpose of deterring others from repeating the act. Incidentally those who are most insistent on the employment of the executioner show that they possess a fair share of the same spirit that educed the act which they condemn. They are rightly indignant,



but they do not seem to see that justice and bad temper are not the same thing.

Few would defend the application literally of the retributive "eye-for-an-eye" principle. They know that a man's eye may not be of as much use to him as that which he has destroyed may have been to his victim. It may be like taking gold and offering lead in exchange. Even if the eyes be equal in value it does not in the slightest degree compensate the injured person to know that the person who did him the injury is as blind as he ; and as for the community, it is to place two blind men where one was before. Of course nobody has proposed to deal in this manner with the person who blinds another ; but many are quite satisfied to act on the principle, and to apply it by way of killing murderers and flogging those who commit assaults. The law has prohibited certain actions as below the standard of conduct permitted to the members of the community. When a man takes life, in order to show him the sacredness of life, it takes his. It is a lesson to him ; and there is this to be said for it, that it prevents him from offending again.

We all know how much we are the superiors of the poor foreigners in our manners and our powers, for in spite of our modesty, our teachers in the Press are always insisting on the fact, and truth compels us to admit it. Yet these same teachers sometimes confuse us not a little by their methods of defending us when we are charged with doing something which we cannot deny having done. Some necessary severity in war, or some strong actions on the part of those who in our name teach the native races how to live, may have provoked remark on the part of other nations. At once we hear that they have done similar things ; but if we are better than they, surely we must prove



it by our actions? If we are better than those whom we judge and condemn, why do we treat them as they have treated others?

To hire a man to kill another is a queer way to teach men to respect life. That our fathers did it is true, and we have taken over the practice from them. I do not think it probable that our fathers were any greater fools than we are, but their circumstances were different; not to speak of the fact that we have had handed on to us by them an accumulation of experience in civil life which they had not time to absorb. We may be no better than they were, but they have not failed to contribute to make us better off, and their ways of doing things are not suitable to the altered circumstances in which we find ourselves. They were more worried by their fighting men than we are, and were always liable to be assailed by some lord or other whose honourable occupation was arms and who was industrious in the pursuit of it. He or somebody like him professed to protect the worker and ensure him the fruits of his labour—less discount. The fighting man has always made this profession; but he never protects the worker from the worker; he protects the worker from some other warrior who may be a greater nuisance—or may not. Now he is under the direction of the law, and is not allowed to make war on his own account. The survivals that do are criminals.

In the good old days the governor was often busily engaged and had no time to bother with offenders. The pit or the gallows were for them, unless they could be depended on to refrain from troubling him and pay him for letting them work. Part of the time he was himself a prisoner in his castle—and a not very sanitary or comfortable prison it was—and at other



times he was acting as warder over some other lord whom he had besieged. The easiest way to deal with unruly persons was to hang them to a tree and leave them there ; they deserved it, and even if they did not, they might do so ; in any case they were a good riddance. Now we are more settled and less summary in our dealings with each other. We have long ceased to employ the hangman except in cases of murder, and even then the penalty is seldom inflicted in Scotland ; for it is repugnant to the feelings of most juries, and they only call killing "murder" when their feelings of indignation get the upper hand.

I am far from saying that no case can now be made out for capital punishment ; what I am contending is that it is the outstanding example of the application of the retributory principle ; and yet in practice it is usually defended on the ground that the culprit is so bad that he ought to be killed—another ground altogether. "What could you do with a man who would do that ?" is the question addressed to those who assert that the worst use to which you can put a man is to kill him. Well, is he so bad as all that ? I have seen a number of very tough specimens under sentence of death, and have watched the effect on warders of intimate association with them. They have had to be constantly in the company of the condemned, for although he has to be killed he must be given no opportunity to kill himself ; and in almost every case the men had only one opinion after getting closely in touch with the criminal, and that opinion was that, in spite of all the evil in him, he was not such a bad creature after all. In some cases the opinion of his character was much more favourable ; but in all cases the opinions were the result of seeing the man when he was under the sentence of the law. That is as true



an observation as that the sentence was the result of conduct when he was running wild. It was the same man who had done the wicked act who impressed men favourably, though their official bias was against him ; and he could not have done so if the qualities had not been in him.

There may be men among us who are so utterly bad that all the State can do with them is to kill them in order to secure the safety of others, but I have not seen them. There are men so riddled with disease that no cure for them can be held out, and the disease may be of such a character that it is likely to infect or affect injuriously those who attend them, but doctors are not permitted to kill them. In these cases as strong an argument could be adduced in favour of capital punishment as in the case of criminals ; and there are those who advocate the lethal chamber for certain classes of the diseased and "unfit." In every case the advocates of the proposal should be the first to go there, for their very advocacy shows that they are themselves unfit to take a sufficiently wide view of the good of the State.

We know too little of the possibilities of life to be justified in condemning anyone to death. The medical man speaks of some diseases as being incurable ; but so far from meaning what he says literally, his whole life is spent in seeking for cures. Knowledge widens slowly, and false lights are hailed as true, but in spite of all set-backs there is progress ; and to-day the diseased conditions that our fathers could not deal with may be relieved and in many cases cured. What the doctor really means is that there are many diseases for which he has not yet found the appropriate remedy ; and when we speak of men as being incorrigible we are only entitled to use the word in the same limited



way, meaning that we have so far not been able to correct them.

The infliction of the death penalty has no good effect on those engaged in it. I have never seen anyone who had anything to do with it that was not the worse for it. As for the doctor, who must be in attendance, it is an outrage on all his professional, as well as his personal feelings. The physician is taught that it is his duty to save life, apart altogether from its personal value. When he is called in to a patient it is no affair of his whether the sick person is a saint or a sinner; it is his duty to do his best for the patient irrespective of any question of character, and to risk infection as readily for the sake of the wicked as for the sake of the good. At the behest of the law he has to take a part in the killing of a man whom he has been instructed to attend in order that at the proper time he may be led to death in a state of good health.

I do not say that there are not men who may seem so debased and vile that any reformation would appear to be only remotely possible; but while they are to be blamed for their wickedness, we are not free from blame for permitting them to grow into such a state before taking them in hand. In no case that I have seen was such interference impossible had our system been one that lent itself to the prevention of crime and the reformation of the criminal; but because it was easier and more profitable for them to do ill than to do well, they went the wrong road with disastrous results to others as well as to themselves. Blame them by all means; but let us be just, and having settled how much they are to blame—not a very profitable task—let us set about to find how far we are to blame; having punished them, what about punishing ourselves? Our punishment is fixed by laws that no Parlia-



ment can alter ; our own neglect of the wrongdoer ensures it.

The objections to capital punishment apply to all punishment up to a point, for if it is wrong to slay a man it is also wrong to maim him ; and in so far as our conduct towards him makes him a less efficient member of the community it does maim him. There are many who are so indignant with the law-breaker that they have no patience with anybody who has doubts as to whether our way of dealing with him is all that could be desired. They object to his being pampered—whatever that means—and call everybody a sentimentalist who is not for “vigorous means of repression.” There is a sentiment of brutality that is quite as dangerous as any sentiment of pity, and a great deal more harmful ; but pity for the criminal need have very little part in consideration for his reform. He may be, and often is, far from being an estimable or attractive person, and the last thing he needs is pity. A man may be a good physician or surgeon without being given to anything approaching sentiment that is maudlin ; but whether he is full of pity or not he must be sympathetic—that is to say, he must be able to appreciate the standpoint of those with whom he is dealing. So must the man who would deal with offenders ; if he fails in that he fails in everything. It may be all very well to describe some of them as brutes and to say they should be treated as brutes, but it does not help forward the matter of treatment in the slightest degree ; for even brutes cannot all be treated alike, and if a man is treated as a brute it is not likely to result in making him behave like a man. “The only way to make a man is—Think him one, J. B., As well as you or me.”

The cat is a specific for the “brutes” that have not



qualified for the "rope." The argument seems to be that because a man has committed a brutal crime therefore he is a brute; as he has inflicted serious bodily injury on a fellow-citizen it is proper that someone should be employed to inflict serious bodily injury on him. But will the man whom you employ to do this laudable work not be a brute also? Does your official imprimatur remove the brutality of his act? If not, one result would seem to be that at the end you have two brutes among you instead of one.

There has never been any pretence that the executioner's occupation is not a degrading one; never in all this country for very many years, at any rate. He is not looked down upon because by his office he inflicts pain. The surgeon in the course of his work inflicts pain, but nobody considers him any the less worthy on that account. A hand might be cut off by either of them in the discharge of his duty; but though the result may be the same to the owner of the hand, the object has been different. The surgeon has amputated the hand to save the man's life; the executioner has cut it off to maim the man. There can be no objection to the infliction of pain on a criminal more than on others if it is incident on a course of treatment which there is good reason to believe will result in his reform; but there is no such reason for belief in the efficacy of flogging.

I do not say that nobody has been the better for a whipping. There are many men who are ordinarily as modest as those of our race usually are, and who say that they were well whipped in their boyhood with great benefit. It might be unsafe to suggest that the argument is not so convincing as it may seem to those who advance it. Sometimes there is a temptation to think that the treatment, if it were really so effi-



cacious in making them virtuous, might with profit have been continued ; but there can be no doubt they are firmly convinced that without the thrashings they received they would have been worse than they are. This hardly touches the point, for it is one thing to be whipped by an official who has no interest in the person whipped, and another thing altogether to be chastised by a parent or guardian, or even at his instance. The effect on the integuments may be the same in both cases, but there is a psychological effect which is different. Children know that wrongdoing on their part is sometimes the occasion and the excuse for an exhibition of temper on the part of their parents ; and they take their punishment with the best grace they can and keep out of the way next time they misbehave. A whipping in cold blood they do not take in the same spirit ; and they are right.

The great objection to any arbitrary punishment is that it may do far more harm than good. Suppose a child is disobedient and obstinate, and the father proceeds to whip it into obedience. If he succeeds the child may, through fear, avoid such conduct in the future ; but if the child persists in his obstinacy in spite of the whipping, and gets into that dumb dour state in which he is likely to go off in a fit if the whipping is persisted in, the shoe is on the other foot. The father has to desist through fear, the child having met force with passive resistance is the master, and he retains the impression of his parent's brutality and impotence. It is never wise in the case of children, or of men, to embark on a course of treatment that you cannot continue till your object is gained.

There may have been some reason in flogging men with the object of ruling them by fear, but the policy



would depend on the thoroughness with which it was carried out for what success it could obtain. There would always be the risk that the penalty would make men more ferocious if it were the probable result of their misconduct, for if fear may prevent people from doing the ill they desire, it will also cause them to seek safety by attempting to destroy the evidence of their wrongdoing. Make death the penalty for robbery, and a direct inducement is offered to the robber to kill his victim and prevent him from telling tales. Flog men for breaches of the law, and if they fear the pain they will the more readily become reckless, on the principle of its being as well to be hanged for a sheep as a lamb.

That there is a strong feeling on the part of the public against flogging is undeniable, and it is not so much the result of reasoning as of sentiment. The process shocks their sense of propriety. The mass of men not only shrink from suffering pain, but they shrink from the suffering of others, and they are less inclined than they once were to believe in its efficacy as a remedial agent. The man who in a former day would have been flogged and set to work is now sent to hospital if the whip has scored his flesh. A surgeon stands by to see that his vitality is not lowered beyond a certain point in the execution of the sentence ; it is a nice occupation for him to superintend the impairment of a man's health, but as a compensation the rogue may become a patient and the doctor have the privilege of healing any wounds made under his supervision. The patient is now in a position to do any mischief he chooses ; you have done your utmost with him and are not permitted to kill him. If as rigid an enquiry were made into the causes of men's wrongdoing as is made into the question of their personal



guilt there would be less occasion for punishment as we have had it.

Boys are still whipped for some offences and in certain cases. To say that it is better to whip a boy than to send him to prison, is only to admit that whipping is the less serious of the two methods of injuring him ; and in some cases the boys are whipped for no other reason. There is a well-founded reluctance to sentence them to detention in any existing institution, combined with a belief in the necessity of inflicting some penalty on them for their misdeeds. The boy has done wrong and he must pay for it. The world is so constituted that we are all the children of our acts ; payment may be delayed, but it must be made sometime if every deed carries its penalty with it ; but such a belief is quite consistent with scepticism as to the necessity for the legal penalties on which so many place importance. Indeed, that they also carry their consequences is seen of all men, and there is no manner of doubt that those on whom they fall are made worse citizens by them. That might be a small matter if their degeneration did not injuriously affect the community of which they are unworthy members, but in hurting them we are hurting ourselves.

It is not so much what we do as the spirit in which it is done that causes the mischief. A person who is sick and in bed may be as much a prisoner as a man in a cell. His doctor may prevent him from seeing visitors and may sentence him to a period of something very like solitary confinement, but he knows that this is done with no intention of hurting him, but because it is necessary in the interest of his health, or that of others. The prisoner has no such opinion as to the purpose of his imprisonment, and neither have those who carry it out. He may be the better for it, though



that is exceptional, but discomfort and pain is an essential part of whatever cure there is. I remember when a student a worthy old practitioner who made a point of choosing the most painful remedies for persons suffering from certain diseases, as he held the opinion that they ought to be made to suffer for their misconduct. He certainly made them suffer, but as they were not compelled to attend him they chose others who cured them more rapidly and with less pain.

It is now generally recognised that pain, or anything that lowers vitality, operates injuriously and retards the recovery of patients; and every means is taken to prevent suffering, not because it makes the patient feel bad, but because it causes him to be bad. Suppose a surgeon said to a man who appeared before him with a scalp wound received through falling on the kerb while under the influence of drink, "You have been foolish and wicked, since you have made yourself intoxicated and lost control of your senses. Your head is wounded, and it is only a chance that you have not been killed. You have disgraced yourself in the eyes of those among your friends who have any sense of respectability, and you have run the risk of losing your employment as the result of your intemperance. This I cannot permit to pass unpunished. An example must be made of you in order to deter others from following the same pernicious course. You have forfeited the right to consideration, but, though you must be made to remember that such conduct as yours cannot be lightly passed over, I shall deal with you as leniently as possible for the sake of your wife and family. You will receive an application of germs to your wound which will produce erysipelas, after which I shall proceed to deal with your cure." The doctor



who tried this method would be sent to a lunatic asylum ; but it is precisely what is done in our courts. The prisoner is told he is bad—and he is ; then he is sent—to be made better ? Not at all.

Whatever may be said against the prisons, it cannot be shown that they ever were designed to reform those sent to them, and if they fail to do so they do not therefore fail in the purpose for which they were built, which is to detain and punish criminals. The extent to which they do punish varies greatly according to the antecedents of the person who is sent to them. On the clerk and the labourer who have received the same sentence its physical effect may differ very much. If both are put to do labouring work, as they very well may be, at the end of the day the man who is accustomed to it will be less hurt and fatigued than the man who has been used to other employment. If the object is to make them all alike uncomfortable the clerk should be set to dig a trench and the labourer to write, and at the end of the day the one would be stained with ink and the hands of the other would be stinging or blistered. As it is the work done by the labourer is child's play to him, but it is toilsome to the man whose occupation is sedentary ; to the public it is not of much utility in any case.

A common method of punishing offenders is to impose fines upon them, so that if a man has money he may commit any of a large number of offences without any risk of imprisonment. It may even be profitable for him to do so, for the fines for doing some illegal acts by which money can be made are in some cases less than the profits to be made by transgressing the law. It is a queer condition of affairs. The principle of restitution is one that can be readily understood and approved, but fines are not an attempt



to apply such a principle. They go, not to any person who may have been injured, but to the local exchequer for the most part. This is a vicious arrangement, for it is an incitement to the local authorities to make as much as they can off the offenders in their district; and whether they are ever moved by it or not, it is not proper that they should have any interest in filling their coffers by such means.

Fines fall very unequally as a burden on those subjected to them. The amount inflicted, though small, may be out of all proportion to the offender's means; half-a-crown is not much, but it is a great deal to the man who has not got it. Before the same court you may have two men charged with similar offences. One is a motorist who has exceeded the speed limit; the other is a driver of a light van who in trying to catch a train has been reckless in his driving. The motorist may be fined in five times the amount inflicted on the vanman, but to the one the sum only represents a small inroad on his means, while to the other it represents something like a week's wages. There is not one law for the rich and another for the poor; if there were they might not be so unequally treated. There is the same law for both; but in its effect it favours the rich at the expense of the poor, and that is not to the ultimate advantage of the community.

The fine is an alternative to imprisonment, and in practice it is a peculiarly striking example of our whole system of punishment. The magistrate on behalf of the public says to the offender, in effect, "You have transgressed the laws of the state in which you live and must therefore be punished. I do not wish to be too hard on you, but you must either pay us five shillings or we shall keep you for three days." Now as people cannot be kept in prison without cost being



thereby incurred, the effect of the sentence is that if the offender does not pay to the police five shillings on his own account the taxpayer pays the prison five shillings. The culprit is injured by being sent to prison ; but the public is also injured by having to pay. It is remarkably like the operation known as cutting off the nose to spite the face. This is indeed the effect of most of our punishments ; they injure others besides the criminal, and there is room for grave doubt as to whether they benefit anybody. Once the punishment has been undergone, the offender is supposed to have expiated his offence ; but as there is no positive expiation for past wrongdoing, except it may be future well-doing, this is a fiction.

It is not a wise thing to teach the ignorant that they can pay for any harm they do ; least of all to teach them that they atone by imprisonment for injuries inflicted on others. It is no compensation to a man who has been hurt to know that his assailant is being lodged and fed at his expense, and that some day he will come out no better than when he went into his place of retreat. When a man is disabled by injuries he has received his family is likely to suffer, and if he be a working man they may be in peril of becoming destitute. His assailant is shut up, and his family too may suffer in a similar way and to an equal degree. The law will see that the offender is taken care of, but the injured person and the families of both the parties are left to struggle as best they may. What harm have they done ? They are neglected, and may suffer hunger unless they also do harm, while the offender is "expiating" his offence at the public expense.

In so far as punishment is retributive it is foolish and indefensible, harming not only those on whom



it is inflicted, but those who inflict it. If as individuals we are not justified in fostering a spirit of revenge, we are as little entitled to encourage such a spirit in our corporate capacity. Their actions show that some men are capable of doing very wicked things, and that is a very good reason for interfering with them ; but it is no reason for interfering in such a way that we are all burdened by it, while there is no reasonable expectation that they are being brought to a better frame of mind.

Until late in the last century the Crown Prosecutor craved for punishment on those who had committed indictable offences "in order to deter others from committing the like offence in all time coming." That form has been dropped, but the theory is still widely held that punishment deters others than those convicted. The prison returns show that there is no reason for claiming that it deters many of those who have been punished from repeating their offensive conduct. The "others" in some numbers are always recruiting the ranks of those who habitually transgress, but the great majority of our fellow-citizens keep out of prison. Are we to believe that this is because the punishment of the prisoners sent there has deterred them from committing offences? It may be the reason ; but it cannot be proved even if it is. For my own part, I have never seen any cause to believe that my acquaintances and friends refrain from beating their wives and from taking what is not their own because if they did these things they might be sent to jail ; and I have observed that those who theorise most about the conduct of others and its causes, are frequently quite unable to advance any evidence from their own observations and experience that would support their theories.



There can be no doubt that the dignified jurists who adopt Mansfield's view (that a man should be hanged not because he had stolen a horse, but in order that others might not steal horses) would resent the suggestion that they themselves are honest simply from the fear of the law, and it would show less conceit of themselves and more knowledge of their neighbours if they assumed that the mass of their fellow-citizens are no worse than they.

In my day at school some boys were unmercifully whacked, when the master got into a temper as a result of their iniquity. The theory was that this discouraged others from committing the same offences; but as boys are as often punished for the stupidity of themselves or the teacher as for any wilful misconduct on their part, the theory was not in accord with the practice. When some unfortunate culprit was called up, the feelings of the rest of us were of a mixed nature. Partly we were sorry for him, but the degree was dependent on our personal regard for him; partly there was a feeling of contempt for him in so far as he was imprudent enough to let himself be caught; partly there was some curiosity as to how he would demean himself; and mainly there was thankfulness that we were not in his shoes. The punishment did not deter any of us from doing the same thing; but it did make us more careful in the doing of it, and it gave some a training in duplicity that appears to have been of use to them in their business careers.

In so far as the teacher was considered to be a tyrant it was rather a feather in a boy's cap than otherwise if he could disobey, especially if he escaped. Even if he were caught it was not considered a disgrace, and if he were severely punished the clumsiness he had shown in playing his pranks was overlooked



and he was treated with the respect due to a martyr. It was a small matter to break the master's rules, though nobody cared to be caught ; but it was a serious thing for a boy to outrage the standard of conduct which was adopted by his neighbours. The teacher who knew this could command obedience so long as he worked on the knowledge ; and it is the same with men as with boys. They react most powerfully to the opinion of the circle in which they move ; if it were not so they would soon cease to be members of it. Who sets the standard it is usually impossible to say ; but each influences the other, although one personality may be more dominant than any other. He is the bad one when there is a bad one ; not because he is worse morally than others, but because he is usually more daring and active ; and as the commandments by which boys are ruled are mainly negative, his positive personality brings him into conflict with them and leads others after him.

But there are social circles in our midst where men are placed in the same relation to the law as boys were at school. They are told to respect it, and they know they must obey it at their peril ; but it appears to them as a series of senseless and unjust prohibitions which interferes with their comfort and does not offer them any protection against their enemies. They do not need policemen to protect their property, for they have none to protect ; and they feel quite able to look after their personal safety. What they would appreciate would be protection from what they consider the exactions of the factor and the tax-collector, and there are no police of that sort yet. They have no respect for the law any more than I have respect for a steam-engine, though I keep out of its way. If the law is something that protects other people from them, but



does not protect them from other people, they cannot be expected to hold it in much respect ; they may look on it as their enemy. Many do not go so far, though they distrust it and its ministers ; but there are coteries, groups, who do regard the law as something that it is praiseworthy to break. I am not now referring to a man who makes a living by theft, but to the young people who are brought up in certain slum districts and who there contract inverted ideas of morality. Granted the existence of such circles, it is easy to see how defiance of the law may get a young man the admiration of his fellows ; and as there are parts of the city where homage is rendered to him who has most frequently and cleverly outraged the law by stealing, or by tricking its representatives—where so far from honesty being esteemed a virtue it is sneered at ; where chastity is at a discount, and the thief, rake, and bully is the ideal character—there is no reason for any wonder that in the face of punishments there is no lack of offenders. These people see no reason to respect our rules of conduct. Our punishments may exercise a deterrent effect on them to the extent of causing them to modify their methods of operation, but the bogey we fix up for their warning will not make them virtuous or cause them to alter the standards they have set up.

Punishment does not deter the great mass of our fellow-citizens from committing crimes. They are law-abiding because they have no inclination to break the law and no inducement to do so. Let it press on them and we may hear another story. I am old enough to remember when in 1886 it was proposed to give Home Rule to Ireland ; we had then professors and eminent citizens threatening to take up arms rather than allow the proposal to be carried. They were



genuinely alarmed for the safety of their friends, and their respect for the law took a back seat for the time. It is an easy matter for many of us to stand by the laws, for we have not felt their pinch. That may be a reason why there is always such a difficulty in changing them, and why almost any change is supported by the poorer classes. Certain it is that even among the honest and well-doing poor there is a suspicion of the law and a reluctance to have anything to do with it. Those who are definitely at war with it and those who may be tempted to join them, are the only persons whom we may reasonably hope to deter from the commission of certain offences by our arbitrary punishment of those whom we catch ; and even in their case there is no ground for the belief that the deterrent effect is such as to cause them to mend their way of living, but only to modify their methods. The real deterrent is social opinion, and when one of them comes out of jail it is quite evident that his imprisonment has not caused him to sink to the smallest extent in the estimation of those whose good opinion he values.

Serious crime has steadily declined in Glasgow as the nests of the criminals have been torn down. They are much less potent for evil when separated from each other than when herded together ; but now and then there is a recrudescence of brutality and violence followed by demands for more severe treatment of those who are captured. In France, lately, the guillotine has been brought forth again with the object of frightening the bandits. I know nothing about conditions there ; but it is quite evident that here we might have such a demand resulting from an outbreak of crime, caused not by leniency of treatment of prisoners, not caused indeed by the way in which any part of our penal system acts, but due to the



impunity with which the sharpers and criminals in our midst are allowed to practise. So long as there is no provision whereby a man can obtain opportunity for honest work with a guarantee that the fruits of his labour will not be taken from him, there will be many unemployed. Most of them are quite well-disposed persons, but some of them are not. We cannot deal properly with the shirkers and sharpers till we have separated off the merely unfortunate. When we have seen that men have opportunity to support themselves we shall be fairly entitled to question the person who has no visible honest means of subsistence as to how he is obtaining his living ; and, failing satisfaction, to deal with him. Meantime they are mixed up with the honest and law-abiding but unfortunate citizens, to the aggravation of the misery that honesty and poverty combined have brought on them.

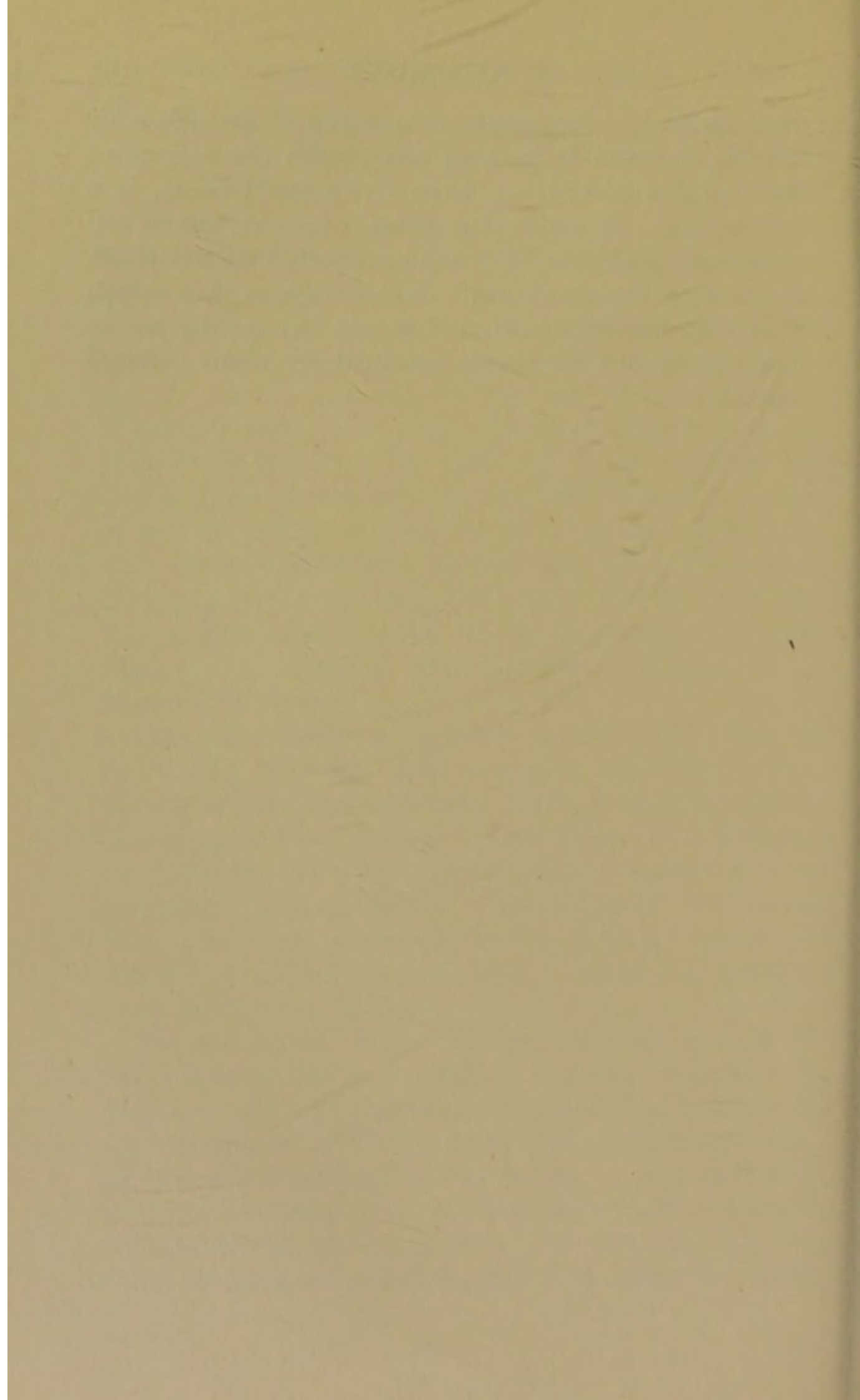
Let them combine and act together and there is no saying how far they may go ; not because our prisons are too comfortable ; not because of anything that does or does not take place there ; but because our cities are not properly managed ; because we have permitted the aggregation of people under conditions that have been favourable to the growth of an anti-social sentiment ; because we have bred the monster that strikes fear into us.

The treatment of the criminal may be wise, or it may be as foolish as I think it ; but you might as well blame the method of treating a typhus case in hospital for the spread of that disease in an insanitary area, as blame the leniency of the courts for any outbreak of crime you may have in the areas which are known to be infested with criminals. All the elements are there for such an outbreak, and if it occurs it will be



because we have permitted them to combine. How far we are justified in making one person the scapegoat for the sins of another, even if we could do it, is a matter for discussion by those who are concerned with such problems. For my own part, I do not think it fair to make an example of anybody, as it is called, and I do not believe that it serves any good purpose that could not be better attained by more rational means.







PART III

THE TREATMENT OF THE CRIMINAL



THE HISTORY OF THE  
CITY OF BOSTON



## CHAPTER I

### THE MACHINERY OF THE LAW

The police and their duties—Divided control—Need for knowledge of local peculiarities—The fear of "corruption"—The police cell—Cleanliness and discomfort—Insufficient provision of diet, etc.—The casualty surgeon—The police court—The untrained magistrate—The assessor—Pleas of "guilty"—Case—Apathy of the public—Agents for the Poor—The prison van—The sheriff court—The procurator-fiscal—Procedure in the higher courts—The Scottish jury.

**T**O the majority of people the living representative of the law is the policeman. It is his duty to protect the citizens from evil-doers, and to arrest offenders. He is the subject of a good deal of chaff, but his position is generally respected; and although men get into the force who by temper and experience are quite unsuited for their work, the great majority discharge the duties laid upon them in a manner that is surprisingly satisfactory, when the demands made upon them are taken into account. They are supposed to have a knowledge of the law, and for practical purposes they must know something of medicine in order that they may give first aid to the injured; they are expected to be able to answer questions of an exceedingly miscellaneous nature when asked by the passing stranger; and they require to be always cool and clear-headed, to be ready for any emergency, and to have a temper that nothing can



ruffle. If they have enough of these desirable qualifications to satisfy the authorities they may receive a salary for their services rather better than that given to the unskilled labourer.

That efforts are made to obtain good men for the post is undeniable. That these efforts are always so enlightened or so successful as they might be is not so certain. In Glasgow, for instance, a standard of height is set up which excludes the vast majority of Glasgow-bred men from this occupation. In some parts of the country men go to flesh and bone, and they are big-framed and brawny ; but this is not the case in the town. Yet a man's height offers no presumption of his fitness for any position involving the exercise of judgment. A minimum 5 ft. 6 in. includes all the 5 ft. 7 in. and 5 ft. 8 in. men ; and a minimum 5 ft. 9 in. excludes all these and limits the choice of candidates very much. It is not the best men to act as guardians to the public peace that are sought, but the best men amongst those of a certain height ; and this is bound to lower the standard of efficiency. Indeed, the higher the standard of height the lower the standard of efficiency will tend to become, because of the limitation of choice implied.

The police force is a civil force and ought to be entirely under the control of the citizens through their representatives, but this civil force is not formed on any conception of civic needs. It is organised on a military model, and subject to inspection by a military man on whose reports to the Secretary of State its efficiency is decided. Nobody seems to think of asking what such an inspector knows of the needs of the district whose police he inspects. His training enables him to tell when a man carries himself well and turns out his toes nicely, and the ability of the police to do



so is aided by their going to inspection in new uniforms ; so that the inspector sees a number of men in new clothes, and decides by their bearing their fitness to act as policemen. This condition of things enables a man to earn a salary who might otherwise be unemployed, and if it stopped there the absurdity might be worth the money ; but when a police force is to be judged and their grants to be graduated, not according to their knowledge of the work, but according to the ignorance of their inspectors, there is likely to be trouble. If the police require to pay more attention to the inspector who can stop their grant than to representatives of the citizens in whose service they are supposed to act, it is a bad thing for the police and for the citizens.

Every district has its own peculiarities, not observed by those who live there because of custom, but noticed by strangers and sometimes disapproved by them. It is an advantage, therefore, that those set in positions of authority should be acquainted with the customs and manners of the people among whom they live. A policeman will discharge his duties with more comfort to himself, more credit to the force, and greater benefit to the community if he knows those in the district in which his duties lie. Unless he is in touch with the law-abiding elements therein, unless he knows them and has their confidence and support, in many cases he will not be in a position to distinguish between conduct that is harmless and conduct that is criminal. For instance, it is well known that professional thieves depend largely on their coolness and daring for their success. If "thief" were written all over them they would starve, and they only earn their living because, to those who are personally unacquainted with them, they are not distinguishable from honest men. The



policeman knows this ; and if he sees a person coming out of business premises long after business hours, he quite naturally questions that person by look or by word. If he does not know whether the person has a right to be there he may make a fool of himself, either by arresting a man who has had legitimate business on the premises or by letting a thief get away. He is on the horns of a dilemma in which he should not be placed.

Again, supposing complaints have been made about lads loitering around certain closes or corners, and the policeman has been instructed to have this stopped. If he knows the inhabitants of his beat he is able to discriminate between those who have a certain right to be about the place and those against whom the complaint is directed. If he does not know them he may reprimand or arrest the wrong people altogether, causing trouble for himself and widespread irritation that need never have been aroused. Those who have been affronted or injured do not take his difficulties into account ; and it may be that those who are responsible for placing him in what is, after all, a false position, have not sufficiently considered the evil results caused thereby.

The military habit of assuming that every man is like every other man, and shifting people about like so many dolls, has its disadvantages in civil life. It does make a difference whether the man set to do a certain duty is acquainted with the conditions in which he is placed or is ignorant of them. Even at the door of a court not only discretion but knowledge is necessary on the part of the door-keeper, and from neglect to recognise this simple fact a Sheriff has been stopped at the door of a High Court ; a Procurator-Fiscal after thirty years' service in the court has been



refused admission ; and the medical officer in attendance has had to demand to see a superintendent before he could get in. If such things are possible in cases like these, it is quite clear a good deal of trouble and annoyance, and possibly a good deal of injustice, may result in quarters which cannot be said to be influential.

It has been said that it is advisable to move men about from one district and from one duty to another in order to prevent their possible corruption ; but the men are neither so stupid nor so bad as this reason would imply. The person who is corrupt will carry his corrupt tendencies with him over a wider area and be quite as dangerous there ; for the less he is known the more readily will his personal defects escape supervision and criticism on the part of those among whom he works ; and it is better that he should be discovered and dismissed than that the great mass of policemen, who are neither stupid nor corrupt, but who are honestly seeking to discharge their duty in such a manner as to gain them the goodwill of their fellow-citizens, should have their work rendered unnecessarily arduous and difficult. Too much is expected of them considering the opportunities they are allowed, and their faults are due more to the system by which they are ruled than to any personal defects on the part of the men. Anything that will bring that system more intimately in touch with the needs of the community and more sympathetically in contact with the difficulties of the poorer classes will help towards the efficiency and also the comfort of the force.

When a person is arrested on any criminal charge he is first taken to the local police station, where the charge is entered. He is searched and placed in a cell, and if there is anything special in the charge against



him, or in his appearance and behaviour, his treatment may be modified accordingly. In the great majority of cases the person arrested is only a petty offender at most. If he has money sufficient, he may hand it over as bail and be released with a notice that if he does not appear at a time and place specified his money will be forfeited and he may again be taken into custody. If he or his friends cannot leave a pledge for his appearance he makes acquaintance with the routine of administration. He becomes the tenant of a cell where he remains till the sitting of the court next morning. If the cell accommodation is fully taken up he may have company; and while every effort is made to prevent old offenders being placed in the same cell with those who are in for the first time, the best that can be done is bad.

Although prisoners are presumed to be innocent till they are found guilty, they are in many respects worse treated while waiting to be sent to prison than after they arrive there. This is not the fault of the police so much as that of the authorities who are responsible for the accommodation or the want of it. A drunk man may be a very helpless or a very intractable person, and little can be done for him till he is sober. His condition is such that it is quite clearly not the best practice to put him in a cell and leave him there. It is no uncommon thing to find that the drunkenness has masked some more serious condition; but even although there should be nothing behind his intoxication, the man is more liable to contract illness than a sober person. In less enlightened countries than ours such prisoners are not left alone, but are kept warm and placed under observation till they are sober. In our country they are less carefully treated. Drunk or sober the prisoner is in an uncomfortable position.



The police have difficulties to contend with that are not present in the prisons. The prisoners they arrest are not appreciably more dirty than when they arrive at the prison, but in the police cells there are not the same facilities for making and keeping things clean. There is no supply of free labour and not a generous provision of paid cleaners, and the cells in some cases seem to be constructed more with a view to saving the expense of cleaning than to providing for the reasonable custody of prisoners. Wooden floors are less easily cleaned than asphalt or cement, and both in the prisons and the police cells this seems to determine their construction. It is a piece of senseless cruelty in a climate such as ours, as anyone can easily find out for himself if he cares to try. In such a place even in warm weather it is difficult to keep the feet warm, and cold feet do not improve a man's temper.

The newer cells are lined with glazed brick in deference to some sanitary notions. It is a great pity that the apostles of sanitation cannot be compelled to live in the places they design. No doubt the glazed walls are more easily cleaned than whitewashed brick would be, but they strike a chill into the occupants of the place, and moisture condenses on them in a way that it does not elsewhere. Cleanliness let us have by all reasonable means, but to be clean it is not necessary to be uncomfortable; and such methods are enough to disgust with cleanliness those who have to submit to their results. Another objectionable feature of the cell is the presence of a water-closet in it. Surely the sanitary expert has been napping when this was arranged; but here again the matter seems to be one of expense. The reasonable way would be to escort prisoners to a place when necessary, but that would mean the provision of a proper staff



of warders. The cell is otherwise unfurnished save for a raised slab of wood which takes the place of a bed. There is no bedding provided. It is a barbarous provision for the man who is presumed to be innocent. As for his diet, there is none prescribed. He may have food sent in or he may have money to purchase it. If not, he will have to get along on bread and water, not having been proved guilty. In the morning he will be brought before the court, and if he asks for it he may have water to wash himself before appearing there. Cleanliness is not enforced, though it may be encouraged; but judging by their appearance when admitted to prison, not many have sought the water-basin during their stay in the police cell.

By the Summary Jurisdiction Act, 1908, it was provided that persons should not be kept in police cells for more than one night, and all persons remanded were sent to prison, to their distinct advantage; for there the staff and conditions are arranged for the custody of prisoners, and they are free for the time being from the noises incidental to the arrest and confinement of drunken persons, while they have a better chance of having their needs attended to. This procedure entailed more work on the officials, a difficulty that could easily have been overcome by a small increase in the staff. It meant not more trouble than is necessitated in the case of persons remitted to higher courts, and if the interests of the prisoners who are presumed to be innocent had been considered the Act would have remained in force; but their convenience was not represented so powerfully as that of the officials, and reversion to the old, bad plan of retaining prisoners in the custody of the police has taken place. They may be kept in the police cells for forty-eight hours.



Some of those who are arrested may be suffering from injuries or disease. To attend these a casualty surgeon is employed. When he is asked to do so, it is his duty to call and see prisoners who complain or who are obviously ill. His pay is small ; and from it, until lately, he had to provide any dressings and medicines that were required. It is not part of his duty to see every prisoner before the court begins. Occasionally people are sent to prison who should never have been brought before the courts at all. Both police and surgeon are placed in a very difficult position by the system. The police may err in their judgment as to the condition of a prisoner and may fail to direct the attention of the medical man to him. On the other hand, if they call in the surgeon too frequently to see persons who are not in need of his services he may reasonably complain, and dissensions may arise on this account which will make the working of the system irritating to all parties. In order to their comfort, surgeon and police have to make allowances for each other and to stand by one another in a way that is not likely to make for such efficiency of service to the public on the part of either as is desirable. When some extraordinary case attracts attention blame is lavishly showered upon the police ; and it is generally undeserved, at least in the form it takes. They are not to blame because of their failure to do things for which they are unfitted. They may be to blame for not protesting against duties being thrust upon them which should be performed by others. It is misdirected economy to underpay medical men, and until this is recognised accidents may be looked for and incidents will occur to shock the public because of the injury which some person has inadvertently sustained.



In the Court the Burgh Procurator-Fiscal may prosecute, or his depute may act for him. In Glasgow with all its police courts there is only one trained lawyer who prosecutes. The great mass of the charges are conducted by his deputies, who are invariably police officers. The only witnesses in many cases are constables and the prosecutor is one of their superior officers. It is a state of affairs that does not impress an outsider by its wisdom, and it is not regarded by those who come within its scope as being fair. The police have too many duties thrust upon them.

On the bench, in the great majority of cases, there is an untrained judge. In Glasgow there is only one stipendiary magistrate, who is a trained lawyer. The others are magistrates of the city, who have to discharge a multitude of duties, among which is that of sitting in judgment on their fellow-citizens. They have been elected to the Town Council to serve their constituents as members of that body, and in due course they are made Bailies. Nobody pretends that they are thereby endowed with a knowledge of the law, experience in weighing evidence, or the judicial mind; but they are invested with judicial powers, and in certain cases can send men to prison for twelve months. They are usually men of excellent character and intentions, but unfortunately both of these qualities may exist with utter incompetence from a judicial standpoint. The draper would not admit that a grocer could exchange businesses with him and the concern go on as well as ever. Each man knows that to learn his own trade requires time, to speak of nothing else; but they appear to believe that all that is required to enable them to execute what in law stands for justice is the possession of a chain of office. Were there any foundation in fact for such an idea many



weary years of study would be saved ; for it is easier to get a chain than a licence to practise. That they are usually quite satisfied of their own fitness for the work goes without saying ; and it would be a piece of vanity as harmless as it is foolish if the liberty of so many were not placed in jeopardy by it. It has been urged as an argument against the appointment of trained lawyers that there were fewer appeals from the decisions of the Bailies than from those of the professional man. This is meant as a testimony to their superior fitness, presumably ; for the only relevant inference from the statement is that the Bailie is better qualified to act as a judge than the man who has had a training in the work. It is a startling testimony to the superiority of inspiration to reason. There are no testimonials from those who had appeared before the courts either as prisoners or agents, however ; and the plea is not convincing. That it should ever have been made is a striking commentary on the fitness of those who made it ; or on their modesty.

Appeals from police-court decisions can only be made on a case stated by the magistrate whose judgment is appealed against. Trained men are not free from liability to error, and they recognise the fact. If a case is stated in such a way that the issue is obscured there is no use in attempting an appeal ; so that freedom from appeals may as readily be a testimony to the inefficiency of a judge as to his efficiency. It may afford a presumption that he is not only unfit to try a case, but not to be trusted in stating one. To suggest that it affords evidence of the superior ability of the draper and the grocer to the lawyer in law matters, is to presume too much on the credulity of the public. If they are really so splendidly endowed it is surprising that they should



not place their services at the disposal of one another when a question of trade causes dispute. In that they might be expected to have knowledge at least ; but though Bailies have power to send men to prison they are not empowered to try civil causes involving the property of their fellow-citizens. That is to say, they have power over the lives, but not over the property of the lieges. This is surely a grave injustice ; either to them or to the prisoners.

In every court where a bailie presides he is aided and advised by an assessor, whose duty it is to keep him within the law. It is a somewhat farcical situation. The prisoner is there because he is charged with breaking the law ; the bailie is there to try him on the charge ; and behind him is a legal gentleman to see that the judge does not himself break the law in the process ! He may either take the advice of the assessor or disregard it, but he is the responsible magistrate. If he follows the assessor's advice, that official is in the exercise of power without responsibility, which is not a position in which anybody should be placed ; if he follows the inner light, the "safeguard" which the assessor is supposed to be is useless.

It is looked upon by many as a very small affair, this whole matter of the Police Court, but it is really a very large affair and a very important one. Police Courts are those where most offenders appear for the first time, and from them they are first sent to prison. As the first step counts for so much, it is of the utmost importance that those who come before these Courts should have their cases thoroughly considered. This cannot be done if the proceedings are hurried, and it is notorious that Bailies "try" scores of prisoners in a day, the work not appearing to interfere with their ordinary occupations. Many of the prisoners plead



guilty ; but it is well known that there is a widespread belief among the labouring classes that if you plead guilty you get a shorter sentence. What justification there is for this belief I cannot say, but of its existence and its operative effect there is no room for doubt. They do not seem to take into account the effect the registration of a conviction may have against them at any future time, and pleas are given that no lawyer would advise.

I do not mean to suggest that people in large numbers plead guilty when they have no knowledge of the offence, but that the act they have committed may have been capable of another than a criminal construction. X 30, a girl, is charged with fraud, which is a sufficiently serious crime. She has no previous convictions against her. She is remanded to prison, and there states she has been advised to plead guilty and she will get off lightly. She is told of the grave nature of the offence and legal assistance is obtained for her. It is found that she is a wayward girl who left her people and came to Glasgow. She obtained employment in a shop, and got lodgings in a part of Glasgow that is not very reputable and with people who were not likely to keep her straight. She lost her work and was kept on in her lodgings ; but an event occurred there which made it imperative that she should go elsewhere, and she removed to the house of her landlady's daughter. She was there a fortnight when she met a woman whom she knew and through her obtained a situation. She left her lodgings and went to live with this woman. At the instance of her former landlady she was arrested for obtaining board and lodgings on false pretences. It was shown that she had paid her debt while she was working ; and she protested she had made no false pretences, but meant to pay the



balance when she could. The case was adjourned to enable her to do so. If she had not had legal advice and assistance there is no doubt that this girl would have had a conviction for fraud recorded against her. She had got into bad company and was on the way to the gutter, but by the operation of the law she would have been driven there. To deal properly with the large numbers which come before the Police Courts would take a great deal of time, but that is no reason why the cases should be hurried through.

If a man has the means to fee a lawyer he is in a better case, or if he has committed an offence which is serious enough to cause his remand to a higher Court, for there he will get legal assistance free ; but if he is simply a petty offender with no one to help him he will probably get dealt with without any loss of time and be sentenced by scale.

It is time that some provision was made to have the police court made less a police court and more a court of justice. There is far too much police about it for the public interest. Anybody may attend, but few do so ; and the proceedings might for all practical purposes be conducted in private, so far as the towns are concerned. The cases are seldom reported, and when the newspapers do notice the proceedings it is usually in a jocular way ; but they are no joke to the persons concerned. A sensational murder is detailed and canvassed as though the only matter of importance to the country was the hanging of the wretch who has got into the limelight. Every hysterical theorist is anxious to get his opinion of the proper way to treat criminals put before the public ; and all the time we are busily engaged in putting into our machine young and old who have taken the first step downwards, and congratulating ourselves on the smoothness with



which it works. It is not cruelty that causes us to behave in this way, but sheer stupidity and lack of imagination. Now and then a man who has eyes to see gets made a Bailie, but he makes a poor police judge. Those who look upon themselves and are credited by others with the heaven-born instinct are as likely to be the men whom no one would trust to be a judge in his own cause; and it is quite possible for a man who is narrow-minded, vindictive, and callous to have the fate of his poorer fellow-citizens placed in his hands, and, because he likes the work, to continue on the bench long after his term as a Bailie has expired. If it is important to deal with wrongdoing in the beginning; if it is desirable to prevent people from being sent to prison when that can be avoided; it is obvious that we must see that our minor courts are so arranged and so officered that those who come before them have at least as good a chance of having their cases weighed as the old hands who go to the higher Courts get there.

The Sheriff may sit to try cases summarily, just as the Bailie does; but the court is ordered differently. The Procurator-Fiscal has no connection with the police. The case is reported by them to him and he makes his own enquiries and may drop proceedings altogether. The Sheriff is an experienced lawyer and he sees that the prisoner's case is properly presented. The prisoner, if he wishes, may have a law-agent to appear on his behalf, and in jury cases it is the duty of the prison authorities to see that a lawyer has the defence in hand.

In Scotland it has been the custom for all indicted prisoners who have not the means to pay for legal advice to receive competent legal representation. The Agents for the Poor give their services freely and



ungrudgingly. They behave towards the poor person who is accused of crime in the same way as the hospital doctors do to the sick who present themselves. In the course of their work they have to devote considerable time to the cases of those whose defence is entrusted to them ; and if the charge is one that brings the accused before the High Court they appear by counsel for him. No person appears in the dock of the High Courts in Scotland who has not a qualified member of the Bar to defend him ; and the absence of financial means does not affect this privilege. This provision of legal advice and assistance is not made at the expense of the public, but at that of the profession ; and it is of as much benefit in its own way as that made for the sick by the members of the medical profession. I have never seen young medical men work with more enthusiasm to pull a patient from the jaws of death than is shown by the lawyers in their efforts to snatch the accused poor person from the hands of the prosecution. In both cases the energy might be expended to better purpose ; for sick persons are frequently restored to health only to become a greater nuisance to their neighbours, and some accused persons are acquitted and sent out to prey on society ; but when all discount has been made there is left a great deal of good work that was well worth doing. With regard to the work of both doctor and lawyer, we may some day take steps to see that the persons restored to health do not use their powers to the disadvantage of society, and that those restored to liberty do not use their freedom to molest others. At present we take no account of them once they have ceased to be cases—to our disadvantage as well as to theirs—and no one recognises more clearly than the lawyer that he is sometimes engaged in the attempt to turn loose on society a man



who has no intention of conforming to its laws. On the other hand, everyone who has taken part in the work knows that were it not for his action serious injustice would be likely to take place.

If there were as full a provision made for the defence of prisoners who come before the Police Courts as exists for that of those who appear in the higher Courts, it would be alike to the advantage of the officials, the prisoners, and the public; but to ask that such a provision should be made at the sole cost of the legal profession is to ask too much. In special cases they have never been appealed to in vain; and they need to give more time to one case than would enable a medical man to attend twenty. Their services are not sufficiently appreciated and known by the general public, or it would be recognised that they have contributed to save many poor people from degradation and helped to prevent accessions to the ranks of the habitual offender. No one would propose that prisoners who are called before the higher Courts should be deprived of skilled advice and advocacy unless they are able to pay, and yet there is less need in these Courts than in the Police Courts for the provision that exists.

When a prisoner has been remitted from a Police Court he is transferred in a van to prison, to await further proceedings. It has often been remarked that the various departments in Corporations seem to act independently of each other. The Sanitary Department acts energetically to prevent overcrowding in some circumstances, but the van used for conveying prisoners to prison seems to have escaped their notice. It is a prehistoric vehicle in the form of a bus without windows. It is divided into compartments each holding a number of prisoners, and the partitions



contribute to prevent proper ventilation. It is lit by a few panes in the roof. On a hot day it is stifling. Any vehicle of the kind would never be licensed for the conveyance of ordinary passengers, animal or human, by a modern sanitary authority.

The presiding judge in the Higher Courts is either a Sheriff or a Lord of Justiciary. The Sheriff has jurisdiction over a County and may sit both as judge and jury; that is to say, he may try cases summarily; but his Court differs materially, even when he is doing so, from that of the Burgh Magistrate. In the first place, more public attention is given to the proceedings, for the higher the Court the greater is the interest shown in its work. In small country burghs this rule may not hold good, for there the inhabitants know more of what is doing in their midst. They may be acquainted with police, judge, and offender, personally; and in that case are likely to take a lively interest in the proceedings, criticising freely all the parties and influencing powerfully the tone of the Court; but in a great city the Police Courts might as well be held anywhere for all the effective public supervision and informed criticism they receive. Then the police are not prosecutors in the Sheriff Summary Courts. The prosecution is conducted by a Procurator-Fiscal who is appointed by the Lord Advocate, and who holds his appointment for life and is not in any way under the authority of the police. The Sheriff is a man of experience in his profession, and is continually engaged in judicial work, mostly of a civil character. He is not merely or mainly engaged in dealing with criminals, and is not likely to acquire a subconscious prejudice against the defendant.

The Lord Advocate is the head of the department concerned with prosecutions in Scotland, and no



criminal action can be taken without his direction or concurrence. Private prosecutions at common law are practically unknown. His deputies act for him in the higher Courts and are instructed by the procurators-fiscal, who are solicitors and prosecute in the Sheriff Courts themselves. It is their duty to make enquiries into all charges with which the Police Courts are not competent to deal, and these enquiries are conducted privately. From the time a prisoner is passed on to them until he appears at the Court to plead or to be tried there are no public proceedings against him. He is brought into the Court at an early stage, the charge is read over to him, and he is asked to make a declaration. A law-agent is provided for his assistance, and he is told that anything he says by way of declaration may be used against him. The agent may advise him to say nothing and he usually does so, his declaration amounting simply to a denial of the charge. This is signed by him and read at his trial, usually closing the case for the Crown. While the declaration is being taken the public are excluded from the Court. If the Procurator-Fiscal considers that his enquiry does not justify further proceedings the charge is dropped, provided the Lord Advocate agrees ; but if the authorities are satisfied there is a case for trial an indictment is served.

In Scotland when a prisoner is indicted to appear before a jury court he must be served seventeen days before his trial with a copy of the indictment, containing the charge, a list of the productions against him, and a list of the witnesses to be called for the prosecution. Seven days thereafter he is brought before the Court to plead to the charge. If he plead guilty he may be dealt with there and then. If he plead not guilty his plea is recorded and he is sent



back till the second diet of the court. If he intend to set up a special defence, such as insanity or an alibi, notice of such defence has to be given at the pleading diet ; but the witnesses he intends to call need not be notified to the Crown until three days before the trial by jury. The prosecution cannot add any productions or any witnesses to the list furnished in the indictment ; but if it is decided that additional witnesses are required the diet may be deserted and a new indictment served. In no case, however, can a prisoner be kept with a charge hanging over his head for more than one hundred and seventeen days from the date of his committal. After that time he is entitled to be liberated and no further proceedings on the charge can be taken against him at any time.

The Crown usually makes careful enquiries in the public interest when any special plea of insanity is brought forward ; and if satisfied that the plea is a valid one, has provided, at the public expense, expert testimony to that effect on behalf of the prisoner. The greatest care has been taken to ensure that prisoners brought before the higher Courts do not suffer from lack of means, and there is never any disposition on the part of the prosecutor to make it a point of honour that he should obtain a conviction. There is no speech by the prosecutor in opening his case. So far as the Court is concerned the jury start without any bias against the prisoner, and as the evidence is led they gain their knowledge of the case. In most cases the prosecutor does not address the jury at all. He contents himself with leading evidence. The character of the prisoner is not disclosed to the jury until after their verdict has been returned. If during the trial any reference is initiated by the prosecution as to previous convictions, the prisoner is entitled to



an acquittal upon the charge against him. The point the jury has to determine is whether the person committed the crime charged, and they have to find their verdict simply on the evidence led.

The Scottish jury consists of fifteen men, and the verdict of a majority is required. They may decline on the evidence to express an opinion on the prisoner's guilt, but instead may find the charge not proven. This is the most practical provision for giving a prisoner the benefit of any doubt that exists in their minds after hearing the evidence. Whatever the verdict may be, the prisoner, having been once tried, cannot again be charged with the same offence. It is difficult to conceive any system under which a prisoner charged with crime could be more fairly treated ; and if in the minor Courts offenders received the same consideration, the number sent to prison would be greatly diminished and the ranks of the habitual offender would fail to receive so many recruits.



## CHAPTER II

### THE PRISON SYSTEM

Centralisation—The constitution of the Prison Commission—Parliamentary control—The Commissioners—The rules—The visiting committee—The governor and the matron—The chaplain—The medical officer—The staff.

**B**EFORE the year 1877 all the Scottish prisons, with the exception of the Penitentiary at Perth, were under the control and management of the local authorities. One result was that there were many standards of treatment, and Parliament decided that as the prevailing methods were unsatisfactory the treatment of prisoners and the management of prisons should be vested in a central Board.

The changes made by the Prison Commission have been many, and the prison of to-day is widely different from that of forty years ago ; but before attributing all improvements to the new system it is fair to take into account the progress made in local administration during that time. The true comparison is not between the prison of forty years ago and that of to-day, but between the prison and the local institutions of to-day. Central management is likely to result in uniformity of routine and treatment in all prisons ; but it is questionable whether that is a gain. It may tend to more economical administration if the test is one of expenditure of money, but it makes experiment in the way of reform very difficult. Not only are no two men alike, but no



two districts are alike ; and methods of dealing with people belonging to one part of Scotland are not necessarily the best to apply to the inhabitants of another part. It is not a good thing to bring prisoners from outlying districts to centres ; there is always a danger of their remaining there after their liberation and obtaining introductions that will not be likely to help them except in the way of wrongdoing. The large institution may cost less money, but it can never have such intimate supervision as the small one.

The Prison Commission for Scotland consists of two ex-officio and two paid members. The ex-officio members are the Crown Agent and the Sheriff of Perthshire. The Crown Agent goes out with the Government of the day, but he is not usually a Member of Parliament. The Sheriff of Perthshire in virtue of his office had a place on the board which managed the old Penitentiary at Perth ; that is probably the reason why he is a Commissioner of Prisons under the Act of 1877. It is certainly not because Perthshire is a county which contributes many criminals from its Courts to the prison population.

There are thus two lawyers on the Board, one being a judge and the other being the solicitor in whose office public prosecutions are directed. The other Commissioners are permanent civil servants, appointed by the Secretary for Scotland.

At first there were also two Inspectors who gave their whole time to the work of visiting the various prisons and reporting on their condition and management to the Secretary of State, but in process of time there has been a change, and now the Secretary of the Commission is the only Inspector.

The Commissioners themselves visit the prisons and inspect them ; but as they are responsible for the



management, the arrangement is open to the criticism that they report on their own work, without independent inspection.

The Secretary of State is the head of the Board, and is responsible to Parliament for the work of the department; but his sole means of knowing that work is the reports he receives from the Commission. Whether on all boards Members of Parliament should not have a place and power, just as members of a town council form the supervising authority over the work of its departments, is a question that will bear discussion. At present the Member of Parliament can only make himself a nuisance by asking questions; that is what it amounts to, since no matter what the answer may be, it leaves him very much where he was. He is usually as ignorant at the end as he was when he began. Some aggrieved constituent having more faith than knowledge has made an *ex-parte* statement to his representative, who puts a question to the Minister, who passes it on to the department concerned, which transmits to him the answer given by the person complained of, which shows that there is no ground for the complaint. It may be uncomfortable for someone, but it is not business. If the complaints are too frequent or the complainers too influential to be disregarded, the Minister forms a committee of enquiry which turns things up for a time, censures somebody who is too small to cause trouble, makes a few apologetic suggestions for alterations, whitewashes with liberality those who most need it, and presents another report for the waste-paper basket.

Spasmodic enquiries can never make up for systematic neglect, and their effect is seldom to cause as much improvement as irritation. The danger to the public service is not from corruption, but from the



official mind getting out of touch with the spirit of the time and the needs of the public.

Rules for the government of prisons are laid down by the Secretary for Scotland, and these rules become statutory after they have been laid on the table of the House of Commons for a period. They define the duties of the various officials, lay down regulations for the treatment of the prisoners, and deal in detail with the management of the prisons.

The Commissioners have the whole control in their hands, subject to the rules. They appoint all the inferior officers; transfer and promote them; or dismiss them if their conduct is unsatisfactory. They do not appoint the superior officers, but it is to be expected that their advice will be considered by the Secretary of State, with whom the nominations lie. As a Commissioner cannot be in more than one place at a time, they cannot be expected to have any intimate knowledge of the capability of the men who depend for promotion on them; and their task in this matter alone is no easy one. As for knowledge of the prisoners at first hand, that is impossible; for prisoners are as hard to know as other people, and one person cannot know much of another as the result of an occasional short conversation. If they were liable to err they could not be criticised effectively; for any official who might be in a position to criticise would run the risk of not being in that position long; any prisoner might be looked upon as a prejudiced person; and no member of the public is able to offer criticism, for he does not know the facts. This is an unfortunate state of affairs; for even the ablest minds are the better for being brought in conflict with others and in contact with other ideas, and a system that discourages independent thought is not likely to lead to rapid



progress. It has its advantages, however, for a knowledge of the rules and a habit of always carrying them out ensure to the prisoner, peace, and to the officer a good reputation and better prospects than he could ever hope for if he were foolish enough to set his brains to work.

In a private business, when a man gets a position, he cannot hold it unless by exercising his judgment in such a way as to satisfy his employer that he is worth his salt; when he fails in this he is liable to dismissal. In the public service the case is different. There is no question of bankruptcy for one thing, and there is security of tenure for another. You cannot depend on always having men of ability in the posts, but by the aid of rules you can teach a person of moderate talent to get through his work. To disregard the rules may be justifiable in a given case and so far as that case is concerned, but it is liable to knock the whole machine out of gear.

There are many able men in all branches of the civil service, and the fact is often referred to by Cabinet Ministers amid loud cheers from the public; but they recognise the need for routine and follow it. They would otherwise have less time for literary work, in which they can use their original powers to greater advantage. The public departments have produced more poets, novelists, critics, and playwrights than any other large businesses, as, for instance, the railways or the engineering trades. These also employ talented men, but their talents are deflected to business channels. If they had their work laid down for them in rules and regulations they also might add to the gaiety of nations.

Commissioners are always appointed from among men in a good position whose minds have not been



warped by any previous association with prisons. They can thus approach their duties without prejudice ; and officials and prisoners alike have the satisfaction of knowing that they are in the hands of gentlemen.

Each prison has its visiting committee, consisting of members nominated by various local authorities with the addition of ladies nominated by the Secretary of State. Under the rules for prisons it has considerable powers of criticism, but they are not much used. In Glasgow the committee meets once a year, when its members arrange to visit the prison in pairs once monthly. In practice this means that each member spends in the prison two or three hours on an average every year. How much the members can learn about the work of the prison in that time may be surmised. They go round the place and ask each prisoner if he has any complaints, and they seldom receive any. They see that the place and its inmates are kept clean ; that the food is good ; that the sick are being attended to ; and they may hear a complaint of breach of discipline and award a punishment therefor occasionally. They record their visits and make any suggestion that may occur to them. They may communicate direct with the Secretary of State if they choose.

They might perform a very useful part in the management of the prison if their powers were used to the full extent and their meetings were more frequent. They have no power to incur expenditure, but without doing so it is quite conceivable that by inviting the officials to explain matters and to direct their attention to special cases they might do a great deal to suggest improvements, with a view to prevent certain people from being sent to prison and to provide for others on their release.

They have the power to allow or to refuse certain



privileges to untried prisoners. They are all agreed that the prison is an admirably managed institution, as free from faults as any place could be ; but whether they have ever got the length of asking themselves what is the use of it is doubtful. It is clean—as it well may be ; it is orderly—which causes no surprise, although its inmates are there because they “ cannot behave themselves ” ; there are no complaints, and at the end of a visit they know as much of the inmates as they might learn of natural history by a walk round the Zoo.

They might conceivably be set to find out on behalf of the local authorities they represent why the prisoners are there and why so many of them return ; whether it is not time we were seeking other means of dealing with them, and what means ; whether nothing more and nothing else can be done than is done at present to help them on their liberation. The Commissioners have enough to do ; and in the nature of things they are not so well qualified to deal with these subjects as the local authorities, for they cannot come so intimately in touch with local conditions. But the members of the visiting committees are usually busy men on the local Councils and have little time to spend on prison affairs, which may be a very good reason for the Councils nominating others who could find the time. So long as they merely see that the prisoner is not being ill-used outwith the rules, they are only looking after the interest of prisoners and public in a partial way. When they begin to examine matters from the standpoint of the public welfare—when they realise that the treatment of the criminal is as much a matter of public health as the treatment of the sick, and that it is to the interest of the community that it should be undertaken in such



a way as to lead to his reformation—it will be better for everybody, including the prisoner.

I can imagine local committees making discoveries for themselves with regard to the causation of crime that would influence powerfully their whole administration; bringing pressure to bear within the law where it is most required and relieving pressure where it is harmful; using the powers they have, instead of lamenting the want of power which there is no evidence they could use if it were given them; but it needs a beginning.

Each prison is in charge of a Governor who is in daily communication with the office in Edinburgh. He visits the prisoners once daily and hears any complaints by them or regarding them. He has the power to impose certain punishments for offences against discipline, but if they involve a decrease of diet they must be confirmed by the Medical Officer, who may refuse to allow them on medical grounds. He is responsible for the carrying out of the rules and his discretionary power is very small. No qualification has been laid down for the position, and this leaves the Secretary of State free to appoint anybody whom he considers most likely to perform the duties satisfactorily, and prevents the post becoming a preserve for the members of any profession. In Scotland military men have been appointed, and members of the clerical staff and warders have been promoted to governorships, but no professional man has ever been placed in such an important position. When the Governor is absent or on leave his place is taken by the head warder, who performs the duties of this important office in addition to his own.

Where there are a sufficient number of female prisoners there is a Matron in charge of them, who



visits them in the same way as the Governor does the males and discharges similar duties towards them.

The Prison Chaplain must be an ordained minister, and in the larger prisons he holds services weekly and conducts prayers daily. He visits the prisoners in their cells and administers spiritual consolation and advice; and he does what he can to help them on their liberation. Prisoners who are Roman Catholics and those who are Episcopalians are visited by clergymen of those Churches in a similar way.

The Medical Officer must be a registered practitioner, and it is his duty to look after the health of the staff and of the prisoners. Of all the officials he has the freest hand, for it has not so far been practicable to direct the treatment of the sick from a central office; but his very freedom—such as it is—may lead him into trouble should he pay regard to differences of temperament among prisoners and go beyond a consideration of merely physical signs. If he confine his energies to carrying out the rules he need never fear death from work or worry. He may hope to become a highly respectable fossil and have a place in the esteem of everyone to whom he has caused no trouble. He can do much to help prisoners, not by indulging them, but by humanising the place to some extent and setting the tone. He need not be a better man than his colleagues, but he is less a part of the working machine, and that should make a difference in his attitude. He is not concerned with discipline, for the sick are free of it, so that in a sense it is his business to interfere with discipline. His work is to do the prisoners good in a way they can understand; and he has even an advantage over the Chaplain, whom they also recognise as a humanising influence, for men are usually a good deal more anxious about their



bodies than about their souls. The Governor may be a better man than either the Doctor or the Chaplain, but his position as the head of a system that the prisoners do not regard as directed to their aid handicaps his influence on them.

At one time the clerical staff of the prisons was composed of clerks, but now men who join as warders are promoted to clerkships, serving part of the day in the prison and part in the office. All applicants for warderships have to pass a series of examinations and to serve on probation for twelve months before being finally admitted to the service. A rigid enquiry is made as to their antecedents; their health forms the subject of a careful enquiry; and they have to pass an examination in general education. After all this they receive a salary which is not large, to put it mildly. It is a steady job, and therefore sought after by those who prefer to take a small salary with security of tenure to risking the rough-and-tumble of industrial life. Female warders are paid better than men, as women's wages go. Compared with the work done by them in other institutions they are well off, but there is not a rush for vacancies. Both male and female warders in Scottish prisons will compare favourably with any other body of officials; and the prevailing spirit shown by them towards prisoners is kindly and human.



## CHAPTER III

### THE PRISON AND ITS ROUTINE

Reception of the prisoner—Cleanliness and order—The plan of the prison—The cells—Their furniture—The diet—The clothing—Work—The workshops—Separate confinement and association—Gratuities—Prison offences—Complaints—Punishment cells—Visits of the chaplain—Visits of representatives of the Churches—The gulf between visitor and visited—The Chapel—The Salvation Army—Rest—Recreation—The prison library—Lectures—The airing-yard—Physical drill.

ONCE prisoners are within the prison their condition is much more comfortable than it had been when they were under the charge of the policeman. When they leave the van their identity is checked and the warrants for their detention are inspected. They are then passed into the reception-room and are placed each in a separate box. They are taken one by one and questioned as to certain details that are noted for purposes of identification and for statistical records. Then comes the bath. The prisoner removes all his clothing and an inventory of it is taken. When he leaves the bath his own clothing has been replaced by a dress provided by the State. His clothing is disinfected and placed aside in a bundle, against the time of his liberation. He now receives a copy of the prison rules, which he must obey; a Bible, which he may study; a hymn-book; an industry-card, on which his earnings will be noted; and some other articles; and he is passed on to prison.



His life there is one of monotonous routine whether his sentence be short or long.

The prison surprises visitors by its quiet and by the conspicuous cleanliness which is its characteristic feature. Yet it is not surprising that people should be able to keep the place clean and tidy, when they have little else to do and no opportunity for making it dirty and untidy. The cleanliness and tidiness of a prison is different from that of any household. It is not the cleanliness and tidiness of healthy life. It is part of the prisoner's work to keep his cell and its furniture in order.

One thing visitors cannot miss seeing, yet do not observe, though it is of much more significance than the cleanliness they admire: the good temper and tractability of the prisoners. That a prisoner should be clean is wonderful; that people who have been committing breaches of the peace, assaults, thefts, and have been generally a nuisance or a terror to the public, should be moving about at work or at exercises quietly and peaceably, should be so obedient and tractable that one warder can look after twenty of them and seldom have anything to report to their discredit, is far more wonderful. These people are sent to prison because they cannot obey the law, but while in prison they are not rebellious; so that it is reasonable to infer that there has been something in the conditions of their life outside which has led them into misconduct, and not that they are inherently incapable of behaving themselves.

The modern prison is built on a simple plan. Roughly it may be described as two blocks of cells joined by a gable at each end and roofed over; a well being left between the blocks and lighted from the roof. All the cells have windows in the outer, and doors in the



inner, walls. Balconies run round these inner walls, from which access is had to the cells in each flat. The cells in which the prisoners are confined are apartments measuring about 10 ft. by 7 ft. by 10 ft. high. The partitions and roofs of the cells are of whitewashed brickwork, and the floor of stone and asphalt. Each cell has a little window in the wall near the door glazed with obscured glass, and on the outside of these windows a gas bracket is placed. At night the cell is lit by this arrangement, which diminishes the amount of light and fixes its source in a corner. It is designed to prevent any person from attempting suicide by inhalation of gas ; but in institutions where attempts at suicide are more likely to take place other means have been found to prevent the adoption of this method. It ensures that one hundred thousand people are inconvenienced in order that one may be prevented from ending his discomfort. There are other ways of breaking a walnut than crushing it with a steam-hammer.

A prison cell does not contain much furniture. The bed is a wooden shutter hinged to the wall, so that it can be folded up during the day-time. When not in use the bedding is rolled together and placed in a corner of the apartment. Convicted male prisoners who are under sixty years of age are not allowed a mattress during the first thirty days of their imprisonment ; they just lie on the board. I do not suppose that anybody imagines that a man is more likely to lead a new life if he is made to sleep on a bare board, than he would be if he were allowed a mattress. It is intended to hurt, and it will hurt the more sensitive in a greater degree than those of a coarser constitution. It is a part of the system, and will go with it when people wake up to the fact that it is a senseless thing to set about to irritate and annoy others.



Of late years it has been discovered that prisoners were as little likely to escape if their cells were well lit as they would be their cells being ill lit. The windows have consequently been enlarged and nobody has been the loser. The cell at the best is not a place to inspire cheerfulness, but an effort has been made to make the place less bare. Some years ago a six-inch circle of glass was attached to the wall in many cells. The glass was of that variety that distorts everything seen through it when it is used for windows, and when it is silvered and converted into a mirror the effect is peculiar.

The walls of some of the cells are decorated with a chromolithograph, such as is given to customers as a calendar by many shopkeepers at the New Year time. The mirror and the print, bad work and bad art though they may be, relieve the bare, ugly walls of the cells, and indicate a consciousness that the present system is not quite so perfect as it might be. Whether any such mitigations (if it can always be called a mitigation to see your face twisted out of shape and to gaze upon a sentimental chromo) are worthy of the fuss made about them is another matter, for the main question is not whether imprisonment should be mitigated, but—what is its object?

In Scotland the diet prescribed is a very simple one. In quantity it is ample for the needs of the great majority of the prisoners. Indeed, a fair proportion receive more than they are fit to consume. The medical officer may reduce a diet to prevent waste; or he may increase a diet, if in his view the prisoner requires more food. As I believe that nearly every man knows his own needs a great deal better than the diet specialist, a request from a prisoner for more food is never refused provided he is consuming all he gets.



A request for a change of food is quite another thing ; but a man who for gluttony would gorge himself with the diet provided for prisoners would be a curiosity.

The food is excellent in quality, but there is not much variety. There are three meals daily. Porridge and sour milk with bread form the morning and evening meals, and the dinner usually consists of broth and bread. This is the ordinary routine diet, and one can understand that after a time it is not unnatural there should be longings for a change. It is a simple diet and is sufficient. The death-rate in prisons is small. The improvement in the health of broken-down and habitually debauched persons during their term of imprisonment is marked, and there can be no doubt that the regimen saves many of them from death and prolongs their lives.

In these days the benefits of sour milk have been preached by the scientific man, and the culture of the lactic-acid bacillus has become a recognised industry. In the Scottish prisons the inmates have had the advantage of its beneficent operations for many years, though they did not know its name and would have been glad to have seen sweet milk rather than sour. The state of their health forms a strong argument for the advocates of the simple life, yet most of them would choose greater variety in food, though they should die a few years earlier.

The clothing of prisoners, as regards cutting and material, resembles nothing seen outside. The untried male is officially clothed in brown corduroy, and when convicted he exchanges this for white mole-skin. The surface of the cloth used to be decorated with broad-arrows, so that the prisoner looked like a person in a prehistoric dress over which some gigantic



hen had walked after puddling in printer's ink ; but this has been discontinued.

The cut of the clothing seems to be designed to save cloth, and so long as the prisoner is kept warm he does not concern himself about the unfashionable character of his clothes. As for the women's dress, being a mere man I cannot describe it ; but ladies who visit the prison seem to be agreed that it is plain and neat. It is certainly strikingly different from anything they wear.

It is a rule that all convicted prisoners shall wear prison clothes. There are not very many of them whose own clothing is clean enough for them to wear, and not a few are more ragged than they need be. Whether they would not be better employed in cleaning and mending their own clothes than in doing many of the things they are required to do is a question that might be considered. It certainly does not seem reasonable that because a person has offended we should thrust upon him our hospitality to the extent of causing him to use clothing provided by us, if he has clothing of his own that he can decently wear. His own clothing has been placed aside while under our care, and at the expiry of his sentence it may be handed back to him as it was taken from him, excepting for the creases it has acquired in the interval. It would cost more trouble to the officials to set prisoners to improve their own appearance than to set them to break stones, and yet it might not be a bad thing to do nothing for a man, not even to provide him with clothing, if he can do it for himself.<sup>1</sup>

<sup>1</sup> *The Rules for Prisons in Scotland*, 1854, ordain that the Matron "should ascertain how far those prisoners who are committed for considerable periods are deficient in a knowledge of domestic matters, such as cooking, washing, and repairing clothes, and instruct them in these things. She should encourage prisoners, in their spare time, to put their



When prisoners' sentences exceed a certain term their own clothing is washed, and at the end of their imprisonment it is restored to them clean. This teaches them that if they do not keep their clothing clean it will be cleaned for them. At any rate, it does not teach them to do the necessary work themselves; but then it is much easier to do things for some people than to teach them to do these things for themselves.

The work provided for prisoners varies in kind in different districts, but it has one common characteristic, which is that few could earn a living by it outside. It has been said by those who ought to know better that the prisons cannot undertake anything but the lowest kinds of unskilled labour, because of the objections made by trade unions. These societies are no more infallible in their wisdom than their critics, but they do not adopt the foolish attitude attributed to them. Like employers of labour, they have objected to unfair competition on the part of prisons, and quite properly have taken steps to prevent underselling on the part of the authorities. Prisons are not self-supporting institutions, and, in the nature of things as they exist, cannot be made to defray the expenditure incurred in their upkeep. Most prisoners could quite well earn the cost of their food and clothing; but the cost of their supervision is greatly in excess of the cost of their board. It does not take much to keep a prisoner, but it takes a good deal to keep me and my colleagues, and that is a necessary part of the expenditure incurred on behalf of the institution.

own clothes into a good state of repair before they leave the Prison, and in some cases to make new clothes for themselves. And, lastly, she should learn what their prospects are on leaving prison; and with the aid of the Governor and Chaplain, do what she can to procure suitable situations for them."

This rule is omitted from the edition of 1875, and subsequently; but it is greatly in advance of anything that has been substituted for it.



The prison accounts, as published, show a profit in some departments of prison labour, but this is arrived at by the ingenuous way of leaving out everything but the cost of material and (if the work is not for an outside customer) so much an hour for every prisoner engaged at it. If a manufacturer had only these items to consider there would be fewer bankrupts and more wealthy men; and if the price of goods were determined on an estimate of cost which only included these items plus a reasonable profit, it is quite clear that prison labour could undersell free labour. The trade unions and the private employers have simply insisted on prison-made goods being sold at prices which will not cut the market rate.

Prison labour is never so efficient as free labour, and though the employment of prisoners to do prison work may be justified on other grounds, it cannot be defended on an economic basis. It has often been suggested that tradesmen who have been convicted should be allowed to work at their trades while undergoing imprisonment; thereby they would be kept in practice, and would be less unfitted to resume their ordinary occupation on the expiry of their sentence; but a little consideration of the facts will show that however desirable this might be it is not practicable. In prison at any one time there may be a number of tradesmen, but their occupations are very different; and in many cases they are of such a character that even if work for them could be had it could not be undertaken owing to the fact that expensive machinery would require to be installed.

Even where the work is of such a kind that it could be done in prison it cannot be obtained for other reasons. In Glasgow prison, where there are more women than men incarcerated, a laundry was started



some years ago, and customers were invited to send in their washing to be done at ordinary outside rates. The washing is done by hand and no modern laundry machine is employed. The result is that the articles cleaned are not subjected to the same strain, and are likely to last longer. Before long difficulties arose, and it became perfectly clear that these were not due to any action on the part of outside laundries, with which the prison was competing, but to inherent defects in the prison laundry. No business will be successful for long unless it keeps faith with its customers, who require to have their work done and delivered in proper condition within a fixed period. Sometimes there are skilled laundresses among the prisoners, and at other times there are not. Washing may be a very simple process, not requiring much training (although a great many occupations are considered, by those who do not undertake them, to be quite easy, but are difficult to those who try them for the first time), but it requires some skill to starch and iron clothing in a satisfactory way. Customers found this out for themselves. Work of that kind, and it seems a simple kind, is difficult to get, not because competing firms outside put obstacles in the way, but because the customer has no guarantee that he will have it done regularly to his satisfaction.

The workshops vary in kind in different prisons, but they have the common character of differing from any workshop outside a prison. The ability and experience possessed by the managers of prisons are not the same kind as those present in managers of workshops outside. The training has been quite different. The outside man may be very proud of his working arrangements, but if his balance-sheet is unsatisfactory his pride is effectively checked. There is no



such check to the satisfaction of those who manage prisons. When one remembers that they are the sole authorised critics of their own work, it is not surprising that its character should differ from that produced by industrial concerns outside. As a general rule prisoners are engaged at unskilled labour. Some of them are associated at work, but always under the supervision of an officer, who sees that they do not engage in conversation with each other.

Public attention has been directed to the cruelty of solitary confinement, and nothing that has been said or written on the subject could be too strong in its condemnation. The term "Solitary Confinement" is generally objected to and that of "Separate Confinement" substituted for it; but the public need not concern itself with differences which are merely technical. The practice of rigidly enforcing silence and attempting to prevent any but the merest official interviews or associations between a prisoner and others will do as much serious harm under whatever name it is called. Experience has shown that the association of prisoners with each other in the absence of strict supervision may result in general corruption, but rational efforts to prevent this evil can be made without the risk of inducing a greater.

It is against the rules for prisoners to engage in conversation with one another; and the officers are not in a position to talk much to them except on business, even if they had the inclination to do so.

Prisoners may not be the most suitable company for each other; but, in the case of most of them, to shut one in to no company but himself can only result in his mental deterioration, and there can be no doubt that some have been driven towards insanity through this treatment.



It is not an uncommon characteristic of old convicts that they show delusions of suspicion and of persecution, and this is not to be wondered at when one considers the narrowness of their life in prison, and the undue importance that is apt to be placed on little things by a man who is denied rational intercourse with others and whose natural curiosity is repressed.

The more monotonous his life, the more his mind is compelled to dwell on the trivial incidents that are happening around him; the more he is shut in to himself, the greater the tendency for him to become twisted mentally. The fresher and more varied his interest is kept in things outside of himself the better for him and for others.

The tendency of late years has all been towards a less rigid application of the rules which are designed to enforce silence, and there is now more reasonable association of prisoners than ever there has been, and less tendency when they are associated for their attention to be strained in an effort to watch at the same time their work and the warder who is supervising it.

When they are under supervision by a sensible person there is very little danger of their doing or saying things that would be harmful; and as at night they are all in separate cells, the corruption that sometimes takes place in institutions where the dormitory system is in use is not possible.

Amongst prisoners in Glasgow there has never in my experience been any chance for the development of a brooding, suspicious, unhealthy habit. The fact that so many untried prisoners are detained there, necessarily under conditions more favourable than the convicted, has made the place one in which the life is more varied and in which rules could be less



readily enforced than in some other establishments. There have been more occurrences taking place under the prisoners' eyes, and they have had more to interest them.

A good deal of the work is done in association, and that which is done in the cells is usually engaged in by prisoners who are detained for short terms; but even in their case they are not left alone for long periods. Visits to them are frequent for one purpose or another, and there is no attempt made to harass or drive them. Still, at the best, the life is not a healthy one from the mental standpoint.

Work and good conduct are rewarded by marks. Prisoners whose sentence exceeds fourteen days, and who are not on hard labour, may earn four marks per day. For every six marks earned one penny is allowed as a gratuity to the prisoner at the expiry of his sentence, and this may be paid to him on his discharge, or he may receive it through one or other of the Aid Societies after his liberation. Hard-labour prisoners may receive a gratuity of one shilling a month if their conduct and work have been satisfactory.

The Governor sees each prisoner daily in order to hear any complaint that may arise, either on the part of the prisoner or of the warder; but the visit otherwise is a formal one, as visits of inspection usually are; If the prisoner has a complaint or a request to make it is examined or attended to. Should there be a complaint against the prisoner the parties are heard and judgment is given. There are numerous acts which are offences in prison, and the governor has power in minor cases to deal with them and to award punishment at his discretion; but in no case involving a change of diet or the infliction of any physical discomfort can the punishment be carried out until



the prisoner is certified by the Medical Officer to be fit to stand it.

The prisoner may offend in a great variety of ways, as through carelessness breaking a dish ; through idleness failing to perform his task ; through untidiness keeping his cell in an unsatisfactory condition ; he may be insolent and insubordinate towards the officers ; or he may be convicted of speaking to another prisoner or of making unauthorised communications. The offences for the most part are trifling in character and would not be offences outside the prison, but if the system is to be maintained the offenders must be dealt with.

In more serious cases the offender is tried by a member of the Visiting Committee of the prison or by a Prison Commissioner. In some cases the conclusion cannot be escaped that offences are due more to an incompatibility of temperament between the prisoner and those over him than to anything else. A prisoner may behave and work well when under the supervision of one officer, and may do badly when under the care of another. Some people can manage those under them better than others ; but not infrequently the prisoner is neither a malicious person nor the warder a stupid person, and yet they cannot get on together. The obvious thing to do is to separate them ; the easy thing to do is to punish the prisoner.

Sometimes assaults are made on warders by prisoners. In sixteen years' experience I have seen very few, and the assailants were usually half-witted creatures who had conceived a dislike, which did not seem to be founded on any tangible reason, against the person assailed. In my opinion these cases should never be tried in prison. Offences committed in prison which would be cognisable by the criminal authorities if



committed outside should be tried in an open Court. I do not suggest that the prisoner would be treated unjustly if tried in prison, but it cannot be denied that the atmosphere is not favourable to his receiving the impression that he is getting what he would call "a fair show"; and the trial of a man before a Court consisting of those interested in the management of prisons, on the complaint of a prison official, and without the presence of any members of the general public, is not calculated to inspire confidence.

Prisoners are at liberty to make any complaint to the Prison Commissioners in writing, and the governor is obliged to forward it; or they may communicate direct with the Secretary for Scotland without the writing being seen by the prison officials. Such complaints may be referred to those complained against for answer, and if the result is not satisfactory a special enquiry may take place.

Each prison has its punishment cells—places for the incarceration of unruly prisoners. Under rational management there is no use for them except temporarily, and then only to prevent the prisoner from injuring himself or others, or from annoying other prisoners by noise, in a fit of temper suggestive of insanity.

It is one of the Chaplain's duties to visit the prisoners, and although it is intended that he should minister to them spiritual consolation, that term may mean anything in practice. A man, whether a clergyman or not, who puts himself in a position of censor of morals to his fellows, is not regarded by them with any degree of affection or respect, unless he does not stop there. Few people like to be talked down to, whether they are in prison or out of it. A superior attitude adopted towards some is more likely to draw out their evil



qualities, and to excite them to bad temper and wrath, than to help them. I do not think Prison Chaplains in Scotland, whether belonging to one denomination or another, are given to the practice of assuming that with those whom they address necessarily lies all the blame for their position. There is more a disposition to pity than to blame, although an attitude of pity is sometimes a greater insult than one of censure and may irritate as deeply.

There has been a growing disposition to say kind things to and of prisoners. We may believe that more can be done by the kind look than by the harsh word, and lose sight of the fact that pity and sympathy are two quite different things. The fact of the matter is that nobody is able to assess justly the amount of blame to be attached to a man for his misdeeds, and the amount to be placed to the discredit of society; but in few cases is anyone helped by being encouraged to believe that he is free from blame, that he could not do any better than he has done.

Prisoners are not different from others in their tendency to put the best construction on their own behaviour. An astonishing number are in jail because they had bad neighbours. According to their statements, they could get along all right if it were not for the people next door. It may be quite true to some extent, but they are not to be helped in mending their own conduct by attention to the faults of their neighbours. I do not suggest that this attitude on their part, this disposition to prove how comparatively stainless they are and how objectionable are those with whom they have been brought in contact, is due to the ministrations of the clergy, but merely that it affects their estimate of the ministers of religion.

The attitude of the prisoner towards the minister



is one thing ; his attitude towards the doctor, for instance, is quite another. The Chaplain desires to be regarded as a friend of the prisoner, and that by many he is so regarded there can be no doubt ; but unfortunately, with some of them, they seem to measure friendship by their ability to humbug the friend, and the value of the clergyman by what they can put into him which may tell in their favour when he estimates their character, and by what they can get out of him in the way of material help. The Chaplain is sometimes swindled, but so are we all ; his office and his message make him a mark for the shafts of the wicked. He sees one side of the prisoner better than any other official, and if he has counterfeit penitents he has also real ones. His visits may be a source of encouragement and strength to the prisoner ; but whatever spiritual effect his teaching may have—whether it be great or little—if he has a human interest in those he visits, in so far as his character commands respect his ministrations tend to prevent the prisoner from sinking under the monotony of the discipline to which he is subjected.

Representatives of various religious agencies visit prisoners. They are remarkable for their earnestness and zeal, but there is often a fatal difference of standpoint between visitor and visited. A girl brought up in a slum, seeing and hearing sights and sounds which are an outrage on decency ; working for long hours to earn a scanty living ; housed rather worse than many horses and dogs ; ill-taught and ill-cared for ; has transgressed the law and been sent to prison. She knows she is to blame for doing the thing she has done in the way she has done it, but she and those like her regard her imprisonment as in some degree an accident. It is difficult to describe the standpoint.



In a busy street where there is a constant stream of horses and mechanical traffic going in different directions and at different rates of speed, there is always danger to the passenger who seeks to cross ; and occasionally someone is run down and hurt. The injured party is always to blame to some extent, and is hurt because he has failed to estimate the danger accurately and to avoid it successfully ; but others may be to blame also. The fault is never wholly on one side. To the girl the law resembles the traffic in the street ; and when she is knocked down she and her friends regard her as the victim of misfortune.

That is not the standpoint of the visitor. She may have known nothing of the trials and temptations of the poor, save what she has seen from the outside. Hunger has never been her attendant ; poverty has been unknown to her. She has received attention and care in her early days ; has not been tasked beyond her strength ; has been able to choose her own work and do it in her own time ; has been well housed and well fed ; and has found it easy to obey the law. Between the two a great gulf is fixed. Their outlook is as different as their experience.

It is a great mistake to assume that the rich know more of the poor than the poor know of the rich. The street-corner spouter may denounce the luxury of the wealthy and expose himself to their ridicule. They know that they are not as he paints them, and they laugh or sneer at his ignorance ; but they are as little qualified to judge him as he is to judge them. Each sees the other's vices ; and every visitor is as much a subject of criticism by the prisoner as a critic.

It is as unreasonable to expect that a woman in prison will give her confidence to a stranger who visits her, as it would be for the prisoner to expect



that the visitor would submit to her questions. One thing is absolutely certain, and that is that visitors do not do the good they imagine they are doing when they pass from one cell to another exhorting the prisoners to better behaviour. They stir up the emotions of those to whom they minister, and some of the women find great consolation and relief in a good cry. There are those, however, who have learned to distrust the possibility of wholesale reform of prisoners, and who single out some one whom it seems possible to help and hang on to her, visit and encourage her on her liberation, and have their reward in the consciousness that they have really rendered effective assistance where it was needed.

The ideal held up by the visitors in their advice to prisoners too often seems impossible of attainment by those to whom it is presented. There are some who have no ambition to live within the law, but there are many who would rather do so if they could. Most of us have not in us the capacity to become great saints; and to ask the ordinary person to conform to a standard which would present difficulties to us, does not seem reasonable. Something is gained if, though you fail to persuade a person to be good, you can induce him to be better than he has been. Just as many have drifted into evil courses step by step, they may be led into a better way of living by degrees. Sudden conversions are not uncommon, but they are not the rule. The visits to prisoners on the part of people from outside are of great benefit; anything is that breaks the monotony of the day; and if the visitors are receptive they may learn a good deal from the prisoners, and may be made the better for their visit even though they fail to make the impression they desire on those to whom they have spoken.



There are three forms of religion recognised in prison: the Presbyterian, Roman Catholic, and Episcopalian. A service is held once a week by a clergyman of each of these Churches, and the Presbyterians go out to prayers daily.

The chapel has a more or less ecclesiastical appearance, and is divided in such a way that the male and the female prisoners do not see each other, though the preacher can see both divisions. Most of the prisoners do not attend religious services when they are at liberty, but some make an ingenious distinction between religion and conduct. I remember one old woman who had grown grey and almost blind after a long course of vicious and criminal conduct. She was eloquent regarding a person whom she described as being "nae better than an infidel." I replied that "at least he had kept out of prison," and she replied, "Aye; but though I have been a drunkard, a black-guard, and a thief, thank God I never neglected my religion."

I do not know whether the Salvation Army representatives are more effective as religious agents than the other visitors. Their work is certainly better advertised, and they belong usually to the same social rank as many of the prisoners. The religion they teach, if more emotionally expressed, is not different from that taught by the other visitors; but they can appeal to the prisoner more effectively because they are better able than many others to appreciate and sympathise with the difficulties and temptations under which the wrongdoer has fallen.

Many of those in prison are not there because of idleness. They have worked harder in their day than the people who talk eloquently about the dignity of labour. Neither are they there because, like the heathen,



they have never heard the message of the gospel. As a matter of fact, most of them can never get away from the voice of the preacher for any long time, for the evangelists are abroad nightly singing hymns and exhorting the public in all the poorer working-class districts. They have worked hard enough to earn money and are in prison because they have not known how to spend it wisely. In prison they are not taught useful work, and as little are they taught how to recreate themselves after work. Their day may be divided into four parts: There is a time for eating; there is a time for working; and what they do and what food they have has already been shown. There is a time for sleeping: they go to bed early in the evening and rise early in the morning. "Early to bed and early to rise, makes a man——" well, it doesn't. At any rate, the inmates of the prison have not attracted attention hitherto on account of their wealth or their wisdom. Then there is a time left for meditation.

Every prisoner has his Bible and his Prayer Book. I am far from suggesting that this is a provision that should not be made, but by this time it will be generally admitted that mere Bible reading, or praying, when a prisoner is in a measure compelled to it, are not likely to have the most beneficial effect. It is a useful thing occasionally to be able to quote scripture, and some of those who have spent a considerable portion of their lives in prison have stored their memory with a large and varied assortment of texts, which they are prepared to use when they think a profit is to be made thereby. A profession of reformation seems to have a more powerful effect when buttressed with texts of scripture, and an appeal for help on the part of the penitent is more likely to succeed when heard by the



godly, many of whom are exceedingly kind to those who show a disposition to conform to their theological standards.

Persons whose sentences exceed fourteen days may have books from the prison library with which to beguile their time. The books provided resemble the clothing, in respect that it is greatly a matter of chance as to whether they suit the person who gets them. I have seen an illiterate lad from the slums hopelessly wrestling with an elementary manual on Electricity and Magnetism. I suppose this would be regarded as an educational work. The library is carefully selected with the intention of excluding all pernicious literature—certainly the sensational is passed by—but we all differ in our ideas as to the value of books ; I myself would describe some popular works as pernicious literature ; and many of the papers that one set of people appreciate and are able to read without apparent injury are of no use to others. The complaint which has been made that prison libraries contain a great deal of poor stuff, and do not contain a sufficient representation of the classic writers, leaves out of account the fact that these classic writers are more talked about than read. The popular novelist of to-day has a larger audience in his own generation than ever Shakespeare had. The one writer is read during his lifetime, the other finds his audience all through the ages. In a prison, as in all institutions, the attempt is made to work to an average. When the educated person appears in prison let us refrain from insulting his intelligence by giving him books to read which he despises ; but he must remember that others are not as he is, and that they may even derive stimulus and benefit from those works which can only annoy him.



The untried prisoner may have newspapers and magazines sent in to him as well as books, unless, indeed, the Visiting Committee refuse to permit this. He can choose suitable literature for himself provided his friends are willing to send it to him, but immediately he is convicted he has no choice in the matter. The State is his librarian ; and it seems a little absurd that the taxpayer should be charged for providing him with things which he does not want, and which can do him no good, if he or his friends could, at their own expense, procure him books he would enjoy.

Of late years lectures have been given to prisoners, and occasionally concerts have been provided for them. The lectures have been on all kinds of subjects. Some of them have dealt with travel and have been illustrated by limelight views ; others have dealt with sanitation, physiology, and the treatment of common ailments ; others have taken the form of cookery demonstrations ; and the prison audience is invariably more appreciative than most audiences outside. They enjoy anything that breaks the dulness of their routine life. No sensible person expects that the lectures will make them travellers, or physiologists, or cooks, though an interest in these subjects may be kindled by the lecturer. Few people are ever lectured into a change of life, but anything that prevents them from sinking into apathy, from brooding on the petty incidents that go to make up their lives in prison, from beating against the bars of their cage, is beneficial.

There are those who protest against making the prison too comfortable and who seem to believe that people want to go there. There need be no fear of this. A cage is a cage even though it be gilded, and they are few indeed who seek imprisonment. Occasionally you have some saying they prefer the prison to



the poorhouse. I have worked in both places and wholly agree with their preference, but that is not a testimony to the desirability of life in prison, but a reproach to the poorhouse. Those who support efforts to lessen the monotony of prison life are not moved by any desire that the prisoners may have a good time. For my own part, I am not concerned to make their lot less mechanical merely for their sakes, but for the sake of the community of which they are a part. I believe that imprisonment has been shown to have a bad effect on those who suffer it, and as some day they are to be turned loose on the community, it is advisable to prevent them being liberated in a condition that would make them more dangerous to their fellow-citizens, or more troublesome, than they were before their arrest.

Outside the block of cells is an airing-yard, which consists of a space round which two narrow paved walks run. On these the prisoners take their exercise, each walking for an hour daily for the benefit of his health; separated by a space from the prisoner in front and the prisoner behind him, and watched by a warder lest any conversation or sign of recognition takes place between him and his fellows. The elderly or physically defective prisoners walk round the inner ring, where the pace is slower.

Some of the female prisoners undergo a course of instruction in Swedish drill. Their opinion is expressed in the name by which the exercise is known. It is called the "Daft hour," and they enjoy it. As to its usefulness from an industrial standpoint the less said the better. It does no harm and it is a pleasant break in the day. In short, the prisoners are better employed in going through the drill than in doing something worse.



## CHAPTER IV

### VARIATIONS IN ROUTINE

The sick—Prison hospitals—The removal of the sick to outside hospitals—The wisdom of this course—The essential difference between a prison and other public institutions—The treatment of refractory prisoners—The folly of assuming that rules are more sacred than persons—The position of the medical officer in relation to the prisoner—The danger of divided responsibility—The untried prisoner—His privileges—Civil prisoners—Imprisonment for contempt of court—The convict—Short and long sentences.

**T**HE system makes no provision for individual differences between prisoners and takes no account of the past training which has made them what they are, but it recognises physical differences. It is the duty of the Medical Officer to see that no one is overtaxed or underfed or insufficiently clothed, and to attend to any sickness that occurs. If a prisoner is insane he is removed to a lunatic asylum. If he is ill he is put under treatment.

In the majority of cases the prison hospitals are simply larger and better-lit cells. They are free from anything but the roughest imitation of modern hospital appliances; but as there is no occasion for the treatment in them of prisoners suffering from acute serious illness, they are sufficient for the needs they are required to meet. What is required for the treatment of such as are sick is not so much stone and lime as flesh and blood. Not new hospitals, but trained nurses.



When a prisoner is reported sick or asks to see the doctor, he is automatically freed from the ordinary rules. If the medical man decides that there is nothing in his condition to warrant his being put on the sick list he falls back under prison discipline. If, however, he requires medical treatment, the Medical Officer may prescribe any regimen which he considers applicable to the case, and the Governor has the instructions carried out. It may broadly be stated that cases requiring the constant attendance of a skilled nurse and those demanding serious operative treatment do not need to be treated in Scottish prisons. Section 72 of the Prisons (Scotland) Act, 1877, enables the Governor, in certain cases, to petition the Sheriff for a warrant to remove sick prisoners to hospitals outside. He must present two medical certificates to the effect that the prisoner (1) is suffering from a disease which threatens immediate danger to life and cannot be treated in prison, or (2) a disease which makes his removal necessary for the health of the other inmates of the prison, or (3) that continued confinement would endanger his life. This is one of the wisest provisions in the Act. Cases might occur in which the treatment required would be of such a character as to make it inadvisable to have it carried out in prison.

Assuming that there is no difference in the experience and skill of the prison doctors and their staff from that of the corresponding officials in the general hospital, the conditions in prison are essentially different. In a general hospital there are all sorts of people as patients, and their friends have access to them; it is a public place compared with the prison. The staff is subjected to continual criticism; not always enlightened, and sometimes unfair, but it exercises



a healthy effect on their actions. There is no greater danger to the public than the uncontrolled specialist ; and it is a bad thing for him if he is led into any belief either in the infallibility of his judgment, or in its necessary applicability to the case with which he deals. He can perform no operation without the consent of the patient or his friends, even though he believe that operation is necessary to the saving of life. There are cases in which this permission is refused in spite of all the persuasions of the medical man ; and in some of these cases, contrary to expectation, the patient gets well. In others death takes place where life might have been saved had consent to the necessary treatment been obtained ; yet it would be an intolerable condition of affairs if the medical man were to have his patients placed at the discretion of his judgment ; and no one would propose that the inmates of a hospital should be compelled to submit to any treatment that the doctors in their wisdom might see fit to prescribe.

In a neighbouring country lately the question of compulsory treatment was raised. All the information I have with regard to it has been obtained from the statements, official and otherwise, which have been published. These statements may have been imperfect, but only from them can the public form an opinion. The statements contradict each other, and as they refer to incidents which took place in a prison—a place to which ordinary members of the public have no access—they are bound to leave an uneasy feeling in the mind of the impartial observer.

Certain women, impelled by the desire to advance a political measure, engaged in conduct which brought them into conflict with the authorities. It was claimed on their behalf that they had committed a political



offence, and in that respect differed from other criminals; but all offences are political offences. Whether a woman strikes a man because she is angry with him, or because she is angry with a Cabinet Minister whom she does not know, she commits an assault which is a crime in the eyes of the law. Her motive may differ in the one case from the other, but its issue has no difference; and in both cases, in so far as the State takes notice of it, it is a political offence. Distinctions between offences can only end in confusion; distinctions between offenders have never been sufficiently recognised; and no real progress can ever be made in the treatment of the criminal until the differences between one person and another are taken into account. There can be no question that in character, in training, and in their previous history, these women differed widely from the ordinary prisoner, and all the trouble which resulted was due to the failure of those in authority to act upon their knowledge of this fact. That the conduct for which many of the women were sent to prison was unreasonable, few will deny; but it was no more unreasonable than the treatment they received. If they behaved like mad people, so did the officials.

The only way in which one person can show greater wisdom than another is by conduct. If the women were hysterical, the officials did not exactly shine as examples of calmness. The highly strung person who glories in what she believes to be martyrdom, who sees everything in the light of her own ideals, is not likely to be brought to another frame of mind by receiving the treatment which she regards as persecution. These women had made it necessary that they should be restrained from annoying others by their conduct; but it mattered nothing to the public that they should



be restrained in a certain way ; what did matter was that the nuisance should be effectively stopped. That the method of dealing with them increased the trouble is beyond question ; and there is no justification for interference with anybody except in so far as the method adopted has the result desired.

It is folly, if not worse, to enter upon any course that cannot be carried on indefinitely. If your treatment fails to achieve the end aimed at, that is bad ; if it results in the person with whom you are dealing beating you, that is worse. The law attempted to frighten the women, and the women, by their continued resistance, frightened the administrators of the law. Which presented the most sorry spectacle it is hard to say.

The trouble seems to have begun through the refusal on the part of the authorities to allow the women to wear their own clothing. What harm it would have done to anybody to grant this permission it is difficult to see. If they had fed themselves and clothed themselves it would have saved expense to the public. They believed that the clothing was intended to degrade them ; and they might have asked, if that was not the intention, why was the proceeding insisted on ? Of course, to permit them to save the State the expense of keeping them while they were in custody would have upset the system ; but the system is far from being considered by those who are responsible for its administration to be anything approaching perfection, for it is a fashionable thing amongst them to ask for its improvement, and to justify changes, when they make them, on the ground that they were required. Opposition grew with repression ; unreason provoked unreason, and the public heard with considerable uneasiness that a hunger



strike was taking place, and that the strikers were being artificially fed.

In certain physical diseases resort to artificial feeding may be necessary, but prisoners suffering from these diseases are not fit for prison discipline and should be treated in a hospital outside. Among the insane are those who obstinately refuse to take food, and therefore require to be fed; but an insane person differs from a prisoner in this important respect, that in the eyes of the law he is free from responsibility and has no will of his own. His friends are permitted access to him. They may, and sometimes do, interfere with the discretion of the medical attendant, and in any case his actions are within their supervision and criticism.

Medical men assume that self-preservation is a primal instinct, and that the person who deliberately sets out to maim himself or to destroy his life is insane, even although intellectually he may appear to be quite sound. If a man become possessed by religious zeal and set out to convert his neighbours to his views, he may incidentally be a considerable nuisance to them. He may stand at street corners and annoy the surrounding inhabitants by his exhortation; but, in Glasgow at any rate, they put up with this on account of the good intention they ascribe to him. If, however, he gives up his business, and prevents other people from attending to theirs by calling on them and arguing with them, people begin to suspect his sanity; and the man who would throw a brick into another's office at the risk of hurting some of the people employed there, in order to convince their principal that if he did not accept the religion the missionary preached he would go to hell, would probably be dealt with as a lunatic. The conduct of some of the women



was quite as eccentric, but people may do insane-like things without being insane. That, however, is no reason for disregarding their eccentricities, which should be taken into account when dealing with them. If the women required to be fed artificially, it by no means follows that it was a proper thing to do so in prison. It certainly was indiscreet, and it is difficult to see how, if it was justifiable to resort to this measure in order to save the life of a prisoner, it could be argued that a medical officer would not be equally justified in cutting off the injured or diseased arm of a prisoner, in spite of his protestations, in order to save his life. It is one thing to place the liberties of men, and another thing altogether to place their lives in the hands of officials.

There is no official and no number of officials—by whatever name called—good enough to be entrusted, unchecked by public observation, with the lives of their fellow-citizens ; and there is no criminal bad enough to be immured from the public gaze and placed wholly under the control of anyone. It is not that the officials are bad ; they are no worse than unofficial persons and no better, and there is far more danger from those who have gained a reputation for humanity and for enlightened opinions, even when they have deserved the reputation, than from the others, because the former are likely to be left more to themselves on account of their good name. Few who read this could be trusted to do as good a day's work at the end of the year as they did at the beginning, if there were not someone to check and criticise them.

Here and there, now and then, there are violent outcries and excitement because of some administrative scandal, and there is seldom much in it ; but there



is no continued and intelligent interest in administration on the part of the public. If a man do not fulfil his contract his employer may accept an excuse once or even twice ; but if his failure continue he will find himself out of a job, and someone less incompetent or unfortunate will be sought and put in his place. In the public service excuses and exceptions are so much the rule that it would be easy to form a library of blue books containing them, printed and paid for at the public expense.

Only ordinary cases of domestic sickness need be treated in prison, and such ailments or injuries as are dealt with in the outdoor department of a general hospital. In Scotland there is little inducement to prisoners to feign sickness, as there is no automatic change in their diet or location as a result of their being placed on the sick list. The doctor may or may not remove them from their cells and alter their diet. So far as the Act of Parliament is concerned the treatment of the sick lies wholly in his discretion, and there is no power granted to any authority to interfere with or overturn his decision. He may be questioned as to the reason for his conduct ; and if foolish enough or weak enough to be persuaded into altering it, in order to please some higher official, he may do so ; but the Act of Parliament is absolutely specific in the matter, and refers the sick not to the Commissioners, but to the surgeon of the prison.

It is much easier for a man to carry out an instruction received from above, than to assert and act on the powers conferred on him by statute ; but it is not right to do so, and in so far as he is subservient he is unfaithful to his trust. Patients cannot be treated by correspondence. No man, however highly placed, is infallible. Better that the man on the



spot should accept his responsibilities frankly, even though he do make mistakes, than that he should look to someone who is not present to direct him in a case of difficulty. No medical man need want for help from his neighbours, and he can easily get someone of approved skill to assist him in the diagnosis or treatment of a difficult case. It is quite proper that his actions should be scrutinised, but it is quite wrong that the scrutiny should take place in private. The statute has recognised this principle, and has ordered that a public enquiry should take place on the occasion of the death of any prisoner in prison. The relatives of the prisoner are there entitled to put any questions to the officials, personally or through an agent; and the Sheriff has to be satisfied that all reasonable care and skill have been exercised in the case.

Private official enquiries give opportunity for petty persecution on the part of any Jack-in-office who fancies his abilities are equal to his position, and whose spleen may be raised against better men than himself. No man eminent in his profession would be likely to be guilty of such conduct, but the occupation of some positions does not necessarily imply professional eminence, though it may infer social influence.

The Medical Officer has not an arduous task in treating the sick. His work practically consists of patching up old offenders, in the knowledge that he is prolonging their lives and their uselessness, to the injury of the public. Many of them would have been dead long ago as the result of their excesses had they not been interfered with. It is well that their lives should be prolonged and their health improved, but only if some security is taken that they use their powers to better purpose in the future than they have done in the past. There is no sense in the State doing anything



for anybody without a reasonable guarantee that the person benefited will not use the benefit to the injury of the community. Many are cured of diseases in various public institutions, and turned loose to live on others for the rest of their lives. There is an increasing number of young people who, having suffered from some serious illness, have been saved from death, but have been left permanently crippled to some extent in one or other of their organs. They are not fit for the work they once engaged in, but they are fit for some work, and so far as can be seen, they have no intention of performing any. A number of them drift to the prison and on the strength of their infirmity try to get special treatment. The special treatment they require cannot be had there, nor is there any place at present where it can be had.

The untried prisoner is permitted to wear his own clothing, provided it is clean and that he can have it changed with sufficient frequency. He may hire furniture and pay for the cleaning of his cell. He may have visits from those of his friends he desires to see ; and he may correspond with them, provided that in the conversation and correspondence there is nothing said or written regarding the charge against him. All letters to and from him are read and censored on behalf of the Governor. Prisoners are not allowed to see and converse with their friends without the presence of a prison official. The prisoner is put in a box with a latticed front, and his visitor is placed in another box opposite. Between the two boxes there is space for a warder to move. He can see the occupants of both boxes, each of whom can only see the person in the box opposite. When a number of prisoners are having visitors at the same time, there is a shouting and gabbling that makes conversation



difficult. Convicted prisoners and convicts of the first class may receive a letter and a visit from a friend once in three months, provided their conduct and industry have been satisfactory. Before their entry into the first class convicts may receive one, two, or three letters and visits in the year, according to the class they have reached. After being a year in the first class they may be placed in a special class, receiving a letter and a visit once in two months.

The prisoner sees his agent in view of but outwith the hearing of the warder. He may have his food sent in to him by his friends, provided it is sufficient in quality and amount, but he may not have part of a meal sent in. He may also receive newspapers, magazines, or books. Any or all of these privileges may be granted or withdrawn at the discretion of the Visiting Committee. It is questionable whether it is right that they should be granted as privileges. The man is, in the eyes of the law, presumed to be innocent of the offence charged against him; and his detention is only justifiable on the ground that he might fail to appear at court for trial. That being so, he ought not to require permission from any committee or official before he is allowed to feed, clothe, and amuse himself; and he should only be prevented from doing so if his act is detrimental to his own health or that of the other inmates of the prison. This might cause more trouble to the officials concerned, but the primary object of the system ought not to be the saving them trouble.

The untried prisoner may have a pint of wine or a pint of beer daily, but on no account is he permitted to smoke. This is a curious restriction nowadays, and there is not the faintest show of reason for its exercise. The proper attitude towards the untried prisoner is not that implied in the question "Why



should he be allowed to do this ? ” The question ought always to be “ Why should he not be allowed to do what he wishes ? ” and this would be the question if the theory that presumes an untried prisoner’s innocence were put in practice. He is detained for the convenience of the public, not for his own, and his liberty should be curtailed as little as possible consistent with good order.

There are very few civil prisoners in Scotland. Failure to pay aliment may entail on a prisoner imprisonment, at the instance and expense of his creditor, for a period of six weeks. At the end of that time the prisoner is free from similar proceedings for six months, but the costs are added to his original debt. He has some of the privileges of an untried prisoner. Failure to pay taxes may cause a man to be imprisoned under similar conditions. Persons sent to prison for failing to have their children vaccinated are treated by the same rule, and persons condemned to indefinite imprisonment for contempt of court.

In Scotland we claim that we do not imprison for debt other than aliment, rates, or taxes ; but the rule is evaded by process of law, and the Prison Commissioners are used as debt collectors in some cases. Technically this is not so, but in practice it occurs. X 31, a woman, has obtained jewellery on the hire-purchase system. She is the wife of a labouring man, and there is room for the suspicion that she has been tempted by the seller. A number of payments are made, then the husband loses his employment, and she is not only cut off from the means of paying her instalments, but has not money to get food. She pawns or otherwise disposes of the jewellery, and is called upon either to pay for it or return it. Her intention may be to pay, but she is not able. She is summoned



to appear at Court, and fails to do so. In her absence a decree is granted ordaining her to deliver the jewellery to the person from whom she obtained it, in terms of the contract made between them. Failing to do this, she is seized and carried off to prison, on a warrant obtained for Contempt of Court, inasmuch as she had not obeyed its decree. All her friends become alarmed, and by their united efforts the money to satisfy the creditor may be obtained. If this is not done she may be kept in prison for an indefinite period at his expense. Had she contracted a debt with the grocer for food, or with a dressmaker for clothing, they could not have imprisoned her if she did not pay them, even though they desired to do so. They are thus at a serious disadvantage, so far as the exercise of pressure is concerned, compared with the hire-purchase trader; but the ingenious among them who regret the abolition of imprisonment for debt may revive it in effect by selling groceries and clothes on a hire-purchase contract.

The routine treatment to which the convict is subjected is much more severe than that which is applied to the ordinary prisoner, and it does as little good.<sup>1</sup> It is a system of repression mainly; a sitting on the safety-valve that is apt to provoke outbursts of temper and violence resulting in assault. These may be punished with the lash. A power which is not possessed by the Judges of the High Court is granted to the Prison Commissioners. It is considered necessary in order to maintain the system, but as no one claims that the system is in any degree reformatory, it becomes a question whether it is worth maintaining.

<sup>1</sup> The diet for convicts is more generous than that for ordinary prisoners, however. Male convicts whose conduct and industry have been satisfactory may be liberated on license when three-fourths of their sentence has been served. Female convicts in like circumstances may be liberated on license after serving two-thirds of their sentence.



The same man who is at one time a convicted prisoner in an ordinary prison may at another time be undergoing penal servitude. While he is in an ordinary prison there is neither power nor occasion to order him the severe punishments which may be inflicted on convicts. If he need the lash when he is sent to penal servitude, there is at least the presumption that the cause lies as much in the character of the life he is compelled to lead as in the character of the man. The more punishment inflicted on prisoners in a prison the stronger the probability is that the place is badly managed. Repression is necessary, no doubt, but repressive powers should only co-exist with power to reward. Even a donkey will go further after a carrot than when driven by a stick. It never does any good to a man to treat him as a machine, and the tendency to do so under the name of discipline is a root vice of the system. In the convict prison, as in the ordinary prison, during the last few years the grinding mechanical routine has been relaxed, and the amazing discovery has been made that it is easier and better to manage men if you recognise that they are men than to regard them as mere numbers. There has even been talk of reformation resulting from the changes that have taken place, and to judge by some magazine and newspaper articles from the pens of enthusiastic and ignorant visitors, one would think the prison had become a kind of paradise.

That other men's behaviour towards us will largely be determined on our behaviour towards them is no new discovery, and that more considerate treatment by officials should result in better conduct on the part of prisoners need surprise no one; but that this better conduct necessarily implies that they will live in conformity with the laws when liberated does



not follow at all. You may improve a man's conduct in prison as you may improve his mental condition in a lunatic asylum, but you never know how he will behave outside until you put him there ; and if we acted on the knowledge of this fact we should see that persons liberated from any institution are placed in proper positions outside—that they should be guided and helped in so far as they need guidance and help—so that there would be less excuse for their recurring to their old habits and conduct, and less chance of their relapse into the condition and actions for which we have dealt with them.

Of late years short sentences have been generally denounced on the ground that there is no time to reform a prisoner who is only under the influence of the system for a few days. This would be a reasonable objection if those who are sent to prison for long periods were thereby made better, but that is precisely what cannot be shown ; for the longer a person is in prison the less fit he is on liberation to take his place in the community. So that if short sentences are bad, long sentences are worse, from the standpoint of the reformer. A person sent to prison for a few days is usually the cleaner for his experience. Imprisonment has kept him off the streets for a time. It has also caused him to lose his job, and, as usually the short-time prisoner is not a person of means, his position is worse after his imprisonment than it was before. He has to earn his living by his work, if he would avoid coming into conflict with the law ; and if he has no means of livelihood it is easy to see that he will find it difficult to avoid recommitment.

In this respect the long-sentence prisoner resembles him, but in addition he has acquired habits in prison that are a hindrance to him outside.



## CHAPTER V

### THE PRISONER ON LIBERATION

His condition—His need—Alleged persecution of ex-prisoners—Discharged prisoners' aid societies—Work—Temptations—The discharged female offender—The attitude of women towards her—"Homes"—The women's objections to them—Pay—The religious atmosphere and the harmful associations—The effect of imprisonment.

**W**HILE in prison a man has been cut off from the life of the world. He has had no visits from his friends save once in three months, and as there is no newspaper which he is permitted to see, he is ignorant of any changes that may have occurred during the time of his incarceration. Those who have at any time been confined to the house by sickness may dimly appreciate his condition. Although they may have been visited by their friends; kept in touch with social movements in which they were interested; and generally helped to a knowledge of passing events of interest; they must have found something strange in the aspect of things when they were first allowed out.

Even after a holiday it takes a man some little time to get the hang of his work. In the case of the liberated prisoner the difficulty is greatly aggravated. He may find that during his seclusion friends have died or have left the district, and if a first offender who feels the degradation he has brought on himself, he is likely



to be sensitive as to the bearing of others towards him. He needs help ; he dreads rebuff ; and he does not know where to seek assistance. He may readily misinterpret the attitude of others towards him and imagine that men whom he has known are giving him the cold shoulder, when, in fact, they have not seen him. He has been shut off from the company of others, and he feels the need of fellowship with someone. He can always have that from those who, like himself, have been through the mill ; and he may be led by them into further mischief.

Our interference with the offender results in his removal, for a time, from the associations and habits to which he has been accustomed ; to that extent the power over him of these associations and habits may be weakened ; but no matter where we put him, we cannot hinder him from learning new habits, and these may or may not be useful to him on his liberation. The more powerful the influence of his later interests the less likely he is to seek to return to his old pursuits. The thing which no man can do without is fellowship or comradeship of some sort. He will seek it even although in the process he may be injured thereby ; and it is because drink makes the company of some men more tolerable to each other that so many take it. It is not so much that they wish to get drunk ; they could do that alone ; and at first, at any rate, the drink is not taken merely to intoxicate, but largely to stimulate sociability. The person who has been pent up in an institution for a prolonged period has not learned habits of a sociable character, but quite the contrary ; and when he gets out he knows that he will more easily become a part of good company if he takes drink, for thereby he will be set free from the feeling of restraint to which he has been subjected.



There has been a great deal of talk about police persecution of liberated prisoners. In some cases the official zeal of a policeman may cause him to act towards an ex-prisoner with a harshness he does not intend, but in most cases the persecution only exists in the imagination of its subject. Few of us see all things as they are. We are influenced by our beliefs quite apart from their foundation in fact, and this is shown in all our actions. We see men believing in others in spite of evidence which we think ought to undeceive them; and people have been known to get married under a quite mistaken estimate of each other's character.

So long as the discharged prisoner believes that the world is against him, that the hand of the representative of the law is raised to oppress him, his actions will be influenced by that belief; and he may be driven to despair as a consequence. I do not think that policemen generally have any ill-feeling towards offenders; but officially there is no encouragement for any personal feeling on their part, good or bad. Theirs is an unenviable position.

We make no real attempt to investigate the cause of wrongdoing and to prevent crime by a rational method. Should a policeman interfere before an offence has been committed, the motive of his interference will as often as not be misinterpreted and he will be denounced as a busybody. In practice we encourage him to believe that it is his main duty to arrest offenders and he does his best to discharge this duty. It is too much to expect that between him and those whom he is set to hunt there can be any likelihood of mutual regard. As enemies each may have a respect for the other, but friendship and friendly help are out of the question. Unfortunately this fact has been left out



of account in some recent proposals for the prevention of crime and the reformation of the offender.

In connection with all the prisons there are discharged prisoners' aid societies, which seek to help those whose sentences have expired. The number of these societies is increasing; but in Glasgow, praiseworthy as are their efforts, they are quite unable to undertake the work that requires to be done. In practice the societies mainly consist of their officials, and these are few and hardworking. They try to get situations for discharged prisoners and to influence them towards a better way of living. Sometimes their efforts meet with success, but they have far too much to do. Their resources are small, and they are hampered by want of funds, but more by want of helpers. They struggle on valiantly in spite of discouragement, and do what lies in their power to prevent those with whom they come in contact from becoming worse than they otherwise would be.

When a prisoner is liberated it is not always an easy matter for him to find work. The fact of his having been in prison is not a recommendation to anyone who would employ him. When work is found for him by the agents of one of the societies which help discharged prisoners, his position may be a somewhat difficult one. It is not every place where he can be employed without objection on the part of his fellow-workers. As men they recognise the need for charity and tolerance towards their neighbours, but prison has such an evil sound to them that they are prejudiced against the person who has been there. When this prejudice is overcome there is usually a reaction in the ex-prisoner's favour, resulting in conduct towards him that may be as embarrassing in its way as any springing from the prejudice against him. At the best



he is liable to be placed in an atmosphere of suspicion that does not help him to do well. The consciousness that he has been degraded is harmful to his sense of self-respect, and altogether it is not easy for him to find suitable companionship. Wisdom would counsel him to avoid the company of those who have been associated with him in the conduct that led to his fall, but the counsels of wisdom are not always easy to follow.

There are very many who are willing to give assistance to a man who seeks to turn over a new leaf, but they expect to direct him as to what shall be written on the next page. If censure and avoidance may irritate and hurt a man who has been convicted of wrongdoing, patronage may raise a spirit of opposition in him. He does not want to be looked down upon, whether with contempt or with compassion. Of course, he ought to be chastened by his affliction ; he ought to be repentant and submissive ; he ought to do what he is told ; but it is not what ought to be that requires consideration if we would help him to do better, but what is. In spite of their vicious acts, it is never an evidence of wisdom to assume that vicious people are greater fools than others. That they behave foolishly, from the standpoint of their own and our interest, is quite true, and so apparent that it needs no emphasis. The question is, Do we, who are so much wiser than they, show that wisdom in our treatment of them ? and the answer, evidenced by the result of our attitude towards them, furnishes no strong testimony in our favour.

When a man has gone wrong it may be generally assumed that there is something in him that has made him unfit to resist the temptations incident to his position. If this assumption be correct it follows that we are not warranted in expecting from him the same



power of resistance as others have shown. We are not justified in assuming that with proper assistance his character and powers may not improve, but it is hardly reasonable to expect conduct from him that would be more saintly than our own ; and a great many disappointments are suffered by earnest people who seek to lift up the fallen, simply because they have expected too much. When efforts to help a man result in failure it is a safe working rule to assume that the fault is at least as much in the nature of the means employed as in the man. They may have been very good means, but they have not been applicable in the case ; which is just to say that the result is the test of their suitability. This is all so obvious that in practice it is disregarded, and we persist in the foolish assumption that people on whom our patent pills fail to act are incorrigible ; though the fact is that the offender is no more incorrigible than the reformer, and is sometimes not so stupid.

The position of the man who has been in prison is not so bad as that of the woman who has been there. There can be no question that women less frequently break the laws than men. This may or may not be evidence of superior virtue on the part of women, but the fact itself makes the position of the woman who has fallen more difficult to retrieve. She is more conspicuous than the male offender, if only because there are fewer of her kind, and the attitude of women towards her is less tolerant than the attitude of men, either towards her or towards those of their own sex who have offended. Accordingly, when a woman once loses her reputation she is more liable than a man to accept the position and to sink under her disgrace ; so that the fallen woman is regarded by many as the most degraded of beings, and her rescue has a fascina-



tion for those who seek to aid the worst. This conception is absurd, as everyone knows who has studied the subject with open eyes, but the question is one that cannot be faithfully dealt with here. The economic position of the woman who has broken away from the standards set by the law need not be, and often is not, worse than that she held before her revolt. It all depends on what she was and how she has rebelled. Vice as little as virtue determines the economic position of those who are subject to it. The transgressor by her transgression is cut off from her class, and she is in danger of failing to gain a footing in any other. She may, and in the majority of cases does, glide out of her folly as she has slipped into it; but when she is publicly branded her chances of recovery are less than those of a man. The attitude of men towards her may be insolent, but it is rarely so brutal as that of women; and it is no uncommon thing to find that the most effective help towards the restoration of a woman has been given by those among her male friends whose character would least bear scrutiny by a censor of morals.

The attitude of her sex towards the woman who is down is generally one of hostility. Whether something of the instinct of self-preservation inspires this need not be here discussed; but it is abundantly clear that the woman whose fall has been publicly recognised cannot hope to resume anything like her old place, even if she were willing to seek it. Her recognition as a respectable woman is too frequently made contingent on her acceptance of a form of religion that enables her past to be always referred to, and herself held up as a brand plucked from the burning. In her attitude towards women she is affected by this knowledge, and their appeal to her loses in effect



because of it. There is nothing more difficult than the treatment of these women. The prejudice against them is so strong that it is only here and there a family is willing to take in and look after one of them.

Attempts are made to influence and direct such women as have no friends, by placing them in homes. No doubt the inmates are much better there than they would be if turned on the streets or living in common lodging-houses ; but they do not commend themselves to those whom it is sought to rescue ; for the majority of them will say quite frankly that it is "not good enough." They prefer to struggle along as best they may rather than submit to the life offered them. It always appears ungracious to criticise the work of those who are earnestly engaged in trying to help others, but it is fair that the view of those they seek to help should be presented. Their view may be a wrong one, but until it is altered it will affect their conduct ; and it cannot be too emphatically insisted on that the opinions of those whom we seek to help should be considered, and when possible acted upon, if it is hoped to render effective aid. The first objection a girl makes to entering a rescue home is that she must bind herself to remain there for a prolonged period. She does not regard the home as a desirable place of residence, but as a step towards restoration to a decent position in the community. She objects to give her work for twelve months, say, getting no other pay than her board, clothing, and lodging, unless she remains in the institution for that time. She claims that she might as well be in prison. The girl is not concerned with the question whether the home pays others or not ; she is concerned with the fact that it does not pay her.

Loss of reputation hinders a girl from getting a situation, even when she is willing to drop her way of



living and revert to steady work. People who pay well quite naturally prefer not to make an experiment and seek to have their money's worth, which implies not only an efficient, but a steady and reliable worker. The situations open to the penitent, therefore, are those which are worst paid. When she gains a character she may obtain more remunerative occupation elsewhere. She recognises that on account of her bad reputation she has to do more work for less money, but she does not so readily admit that it is just that it should be so. She thinks that it is one thing for an ordinary person to take advantage of her needs and to underpay her, while it is quite another thing for a Christian institution to keep her working for insufficient wages. In the home she has as hard work and almost as little liberty as she would have were she in prison. Her associates are girls like herself, with whom she can converse on a basis of equality and discourse on life from a similar standpoint. On the other hand, she is preached to, patronised by visitors, entertained in a very proper manner, and taught in a thousand indirect ways that she is different from them. If her associates do not help her to forget her past, neither do her teachers. They want to be kind, and try to be considerate; the effort is obvious. In a gentle way they may tell the girls what they think of them and how much need there is for their reformation, and they do not seem to see that they would come more closely in contact with those they seek to help if they would assume the things they express by word and attitude, and try to draw the girls out. The defect in the teacher is too often a habit of talking at his pupils. The girls are there to learn; the visitors to teach. Are they? What do the girls learn, and what do the visitors teach? That we are all sinners and our



position a perilous one ; that some of us have been found out and that the penalty should be accepted humbly as being for our good, and so on. If the formula is somewhat stereotyped that is not my fault. The girls who appear to submit most patiently are naturally regarded as most hopeful. What they think about it all does not appear to be considered of much importance. They are wrong or they would not be there ; and yet a girl may make a mess of her life in one direction, and be none the less qualified to give a shrewd and useful opinion on the causes of her failure. If those who seek to teach them had less faith in their own doctrine and more desire to learn, they would become less ignorant and would teach to better purpose. Here and there some know this, and acting on the knowledge, are more successful than others who are equally pious, equally well-intentioned, but less well-informed.

One quite recognises that it cannot be charged against the majority of these institutions that they make money by the girls. They are often carried on at a financial loss, for the cost is considerable ; but reformatory work cannot be conducted on a commercial basis. It is in the nature of things that it should not pay its way in the narrow sense. The cost of adequate supervision prevents this. But to charge the cost of attempts at their reformation to the girls is to inflict at least an apparent injustice on them that is apt to rankle in their minds, and to drive away a number who would otherwise be helped—helped at a pecuniary loss to the home, but at a great benefit to the community. After all, they are earning their own living by their work. What they fail to do is to earn a living for those who govern them. In exchange for their work they are not permitted to spend their earnings as they please, but as it pleases



those who have undertaken to look after them. There may be something to be said for the opinion that if one set of persons seek to direct the lives of another they should be prepared to pay for the privilege; but this subject of charity is one that needs examination. Some people have very quaint ideas regarding it. I remember a decent woman who rather prided herself on her goodness. Her husband had a small business, and she occasionally requisitioned the services of his younger apprentices for assistance at cleaning time. On such an afternoon a newsboy coming to the door, she got a *Citizen* from him, gave him a penny, and received back the halfpenny of change. When he had gone she remarked to one of the apprentices—a boy with a genius for saying the right thing in the wrong place—“Puir boy, I just take the paper from him for charity.” To which he replied, “Aye, but ye took the halfpenny back!” There was something to be said for both views, but the boy had the last word, and he soon found that his criticism had borne fruit; he was dismissed.

In the home there is more of a religious atmosphere and less mechanical routine than in prison; but the religious atmosphere is as much objected to by many of the girls as the mechanical routine. Both may be good for them from the standpoint of the theorist, but neither seems to result in the effect desired. In the prison there are fewer lectures and fewer visits to the inmates than in the home, and the life is more monotonous, but in the prison there is less opportunity for contamination. In both places the old and degraded, the young and the ignorant, may be confined, but in the prison they are separated.

It is quite a mistake to imagine that the vice and degradation—that the state of morals—of a person



can be estimated by her age and the number of her convictions. The old hand need not be so morally corrupt as the younger, though her experiences may have been more numerous and varied. A common statement of those who have been inmates of homes is that what they did not know when they went in they learned before they came out, and certainly they have opportunities of communicating their experiences and relating their adventures while they are in a home that they do not have while they are in prison. This is a thing that cannot be prevented so long as people live together. That many have been restored after passing through the homes is undoubtedly the case, but it does not follow that their restoration was due to their experience there. That many have not been improved, but have been the worse for their residence there, is not at all to be wondered at. Where a religious atmosphere has affected them favourably the disadvantages inherent to the establishment have been overcome. Where it has failed to effect a change in them for good the other associations tend to confirm them in evil.

What effect, then, has imprisonment on those who undergo it? It usually improves their health physically, but impairs their mental capacity. The simple life favours the former; separation and destruction of the sense of initiative favour the latter. Many do not return after a first experience, and it is assumed that they have been deterred from wrongdoing by it; but there is absolutely no ground for this assumption. It may be justified in some cases, but in others there is no reason to suppose that the offender would have repeated his offence, even though he had never been sent to prison for it. Imperfectly as probation of offenders is worked, it has shown this. Indeed, the very imperfection of the method has shown it the more



strongly, for so far from the offender having been taken away from the conditions which incited him to commit his transgression, he has been sent back to them, and in many cases has not again offended.

It is not right to make assumptions when there is opportunity of examining the facts ; and no enquiry has been made as to the effect of imprisonment in deterring those who have been in prison and have not returned for repeating their offence. A great many do return, and that is positive evidence that their imprisonment has not had a deterrent effect on them. Why do they return ? In some cases they have found that prison is not such a horrible place after all, and that though the confinement is irksome the time passes ; and at the expiry of their sentence they may do what they like. Many of them have to work hard and long to earn a living when outside, and they learn that they can pick up a living at less cost and have a better time, if they take the risk of being shut up now and again. They have been cut off from their habits, which may not have been a bad thing, and have acquired other habits which do not help them when they are liberated. They have been officially marked with disgrace, and to that extent rendered less able to secure employment and good company. They have been taught to be respectful and obedient, but they have lost, in a corresponding degree to their improvement in manners, their power to act for themselves. In some respects they are better, in others worse, than they were when they were taken in hand ; and on the balance there is a distinct loss. Recent attempts at reformation have not taken into account the root causes of failure, and they fail to recognise that the longer a person is cut off from the main current of life in the community the less he is fitted to return to it.



## CHAPTER VI

### THE INEBRIATE HOME

The need to find out why people do wrong before attempting to cure them—Enquiries as to inebriety—The inebriates—Official utterances—Cost and results—The grievance of the unreformed—The time limit of cure—The causes of failure—The fostering of old associations—The prospect of the future spree—The institution habit.

**I**T cannot be seriously contended that our methods of dealing with offenders make for their reform. It may be that some of those who do not return to prison have been checked in their career by the treatment they have received, but as a matter of fact, there are a great many people sent to prison who ought never to have been there at all. In my opinion it is beyond dispute that our methods result in the making of criminals; that in the majority of cases imprisonment not only does no good, but does positive and serious harm. It should not be forgotten, however, that there is no ground for supposing that the prison system is intended to reform those who come within its operation. It keeps them off the street for a time and prevents them from annoying those who are at liberty; but this cannot be done without financial cost to the community, and it is only done at a very serious loss in other respects. The same amount of money spent in helping them to do well as it costs to imprison them for doing ill, would prevent many of



them from offending ; but before this could be done more would require to be known regarding the individuals than the mere fact that they have offended against one or other of our laws.

It is necessary not only to find out where and how the criminal has gone wrong, but also where and why we have gone wrong in our method of treating him. Profitable as it would be, no serious attempt has been made to do this. The most that is done is to admit the inefficacy of prison treatment and to devise some theoretical improvement on it. It seems easier for some people to reason *in vacuo*—in their own heads—than to examine the facts and face the consequences. Of late years the public has permitted one institution after another to be foisted on it at the bidding of people who have not shown even the most elementary knowledge of the subject with which they were dealing, and of faddists who want to regulate other men's lives by their own. Their opinion of the offender may be interesting and it may have a value different from what they place upon it ; but it is not nearly as interesting, as helpful, or as valuable as the offender's own opinion of the cause of his fall and of his needs.

The imprisonment and reimprisonment of the habitual offender had become a scandal. It was recognised that inebriety made men and women a danger and a nuisance to the family and their neighbours, but no greater a nuisance than the system by which we dealt with them. Everybody agreed that imprisonment made them no better. It made them abstainers only for the time they were in custody, but it did nothing to destroy the desire for drink. So an Act of Parliament was passed to enable them to be placed in an institution of another sort. If the prison failed to reform



them, the Inebriate Homes have proved a more costly, a more ghastly failure. Instead of finding out the cause of the failure, a departmental committee, after examining anybody but those who had been in the homes, has recommended that further parliamentary powers should be granted to the committees managing them and courts sending inmates to them. The rational method of procedure would have been for intelligent and impartial persons to examine those cases which had been improved, and to estimate how far the improvement was due to the treatment received. This would not have been a difficult task, for the cases were few; and having accomplished it, it would have been equally profitable to examine the many cases of failure and to seek the causes of that failure. It is much easier, however, to collect the opinions of officials, of philanthropists, of those who are interested in prescribing for the conduct of others—in short, of people who are called authorities on a given subject, because nobody has been bold enough to challenge them—than to obtain the confidence and open the mouths of those whose wrongdoing it is sought to correct. It is a grotesque statement that the Inebriate Home failed because the wrong people were sent to it; also it is not true. It would be nearer the mark to say that the home failed because it was not suited for the treatment of inebriates. For after all, the very people for whom it was designed to afford treatment were among those sent there.

The patients chosen for treatment in the Inebriate Home were carefully selected by a physician experienced in the treatment of mental diseases. Some of them were mentally affected as a consequence of their drunkenness, and there is room for supposing that some took to drink partly on account of a mental



defect ; but inebriety is not a physical disease, it is not a mental disease, although it may have some relationship to physical and mental diseases. It was because of its being a social disorder that the State undertook to consider these persons. This being so, each case could only be rationally considered in relation to the social condition of the inebriate. Information about the state of their various internal organs might be useful, but it could never replace in importance or interest information as to their social condition.

The treatment failed because it was not adapted to the persons to be treated, but was adapted to the state of mind of those who, on the strength either of an academic qualification, or a belief in their fitness to judge people who are of a lower social condition, had prescribed a method without any real knowledge of the persons to whom they sought to apply it. The public pays too much attention to the utterances of those in authority, and it is difficult to avoid the habit of mistaking for knowledge what is only a different kind of ignorance from our own. A thing is not true because somebody says it ; it may be true in spite of that ; but it would repay the trouble were official utterances more closely scrutinised than they are. Zeal, honesty, integrity, may be present in the official, and he may be a very talented man as well, and yet he may lead matters into a sad mess. The less he is questioned, the more he is suffered to go on unchecked, the worse for him and for those whose servant he is. The good servant may become a very bad master. Then all official persons are not equally able. If a man has not wit, it is not likely to be developed in him by giving him a title or a uniform. If he has not much wisdom, he is not likely to become less foolish



even though you place him in the seat of Solomon. The fact that a man holds a position is not proof of his fitness to fill it; and respect for an office makes it all the more incumbent on honest men to scrutinise and criticise the actions of the person who occupies it. Loyalty to the public service is too often confused with servility to those in the upper ranks, resulting in something very like a conspiracy to magnify their importance (which would be a small matter), and to induce the public to attach an undue weight to what they say, though their statements may appear foolish enough. All this is quite heterodox doctrine, and in practice will not tend to make a man's path smooth; but the orthodox method of assuming that the higher in authority a person is, the abler and wiser he must be, has not resulted so satisfactorily that it should escape challenge.

The official reports of Girgenti Inebriate Home were a great deal more satisfactory than the results, and the home might have been in existence yet if the representatives of the public had not informed themselves of the real state of affairs. A few cures are put to its credit at a calamitous expense. The cost of keeping a woman there amounted to between twenty-five and thirty shillings per week, and the odds were proved to be against her being reformed after three years' treatment. In other words, the public were guaranteed that all persons sent to the home could be kept sober at a cost of from sixty-five to eighty pounds each per year, but they had no reason to believe that when this payment ceased on their part the patient would take her place in the community and remain a sober citizen. If she was not made better, did she become worse as a result of her treatment there? In some respects she did. You cannot meddle with the lives



of others without result, for it is impossible to leave them as you find them.

I remember being visited one morning by a woman who had left the home after a three years' stay there. She had been drinking before she called on me, and she had some complaints to make regarding her treatment there. The complaints were trifling in character, and were more in the nature of gossip than anything else. I told her that she had cost the community some £200 to keep her during the last three years, and they seemed to have made a bad bargain. I advised her to think a little less of her grievances and a little more of the comfort of her neighbours, and dismissed her with the usual censure and advice ; but she had a case against the State, although she was not able to express it clearly. I would put it for her thus : " When you interfered with my life I had fallen into the habit of drinking, but in the main I earned my own living and meddled very little with others to their annoyance. I had my friends, whom your judgment might not approve, but between them and myself there were common ties. We sympathised with each other and helped each other. You undertook to reform my life, to break me of my bad habits, to make me more fit to earn my living without offending against your laws. You have ruled and governed me for three years. You put me in a home where my life was regulated for me ; you gave me as companions people with whom I had never associated before ; you compelled me to live in their company ; you taught me nothing that I find of any use to me outside ; you kept me from drinking. It may have been a poor pleasure, but it was the only one I had. You did not take the taste for it away, and you have given me nothing to replace it ; and now I am three years older, and you turn me



loose on the streets of the city to which I belong, and in which I am now through your action very much a stranger, and invite me to work for my living in competition with others. I could work and did work before you meddled with me ; I could work yet, but I must have something to fill my life as well as work, and I have taken to drink again, because it is the only thing I know that meets the need I feel. I am worse off than I was before you started to reform me. Then I had friends, now I am alone ; for they have gone their own way : some to death, all of them from me. There is nobody from whom I can have the sympathy and the help I once had. My friends had their faults and they knew mine ; that was why we were friends. All you can offer me is patronage, advice, direction from people whom I don't know and who don't know me. The one thing that I want, which is fellowship, I have not got. You have taught me to depend on others. You have made me obey your rules, and now you set me free to make rules for myself, and leave me to drift back into the place where I was ; to face the same difficulties, the same temptations, without the companionship of those who had grown into my life. You have taken three years from my life and you have given me nothing for it. Give me back my life or justify your interference with it by fitting me to become a better citizen than I was."

This is something like what the woman appeared to feel and tried to say, and there is really no answer to it. It is not a wise proceeding to treat the lives of men and women as toys with which we can play, and throw them aside without practical regard for consequences when we are tired of the game. If we do not direct them, they will direct themselves, and the less fitted they are to do so the worse for us. I



remember one woman who was an inmate of a home, but who had been employed on a farm outside under licence. Her behaviour was excellent ; she was a good worker, although she had had over a hundred convictions for drunkenness before her admission to the home. She always had been a good worker in the intervals between the drinks. She conformed to the terms of the licence, whatever these were, and seemed to be a reformed character. I suggested to her that it was perfectly clear that, though she could not resist the temptations incident to life in the slums of a great city, she might continue for an indefinite period to live a useful life in the country. She replied, "As soon as my three years are up I am going back to the town," and she kept her promise, with the result that she went back to her drinking. In her case it was proved that she could behave for a long period when the only alternative presented to a regulated life outside an institution was a more rigidly regulated life inside an institution. She preferred the outside farm to the home, but she preferred the streets of the city to either, and her case raises the question whether it is advisable to withdraw all control from those like her. She did not require to be continually overlooked by officials in order that she should conform to the law. Her life was left under the inspection of the inhabitants of the district in which she worked, and it is quite conceivable that she might have been working there yet, if she had not known that the reward of restraining herself would be not so much a change in character, as freedom from any supervision when a fixed term had expired.

The cause of the failure of the Inebriate Home did not lie in the character of the inmates or of the officials who were placed over them, but in the defect inherent



in all institutions ; the fact that the manner of living in them differs essentially from anything that obtains outside. They are all founded more or less on the military model, and the military model and the industrial model are different. Far more than most of us suspect we are the creatures of habit:—often of habit acquired slowly, gradually, and unconsciously. To remove ourselves from one place to another implies the breaking off from some habits, but it also implies the formation of others. It did not need the experience of the Inebriate Home to let us know that men might be removed from the opportunity of drinking for long periods and, on return to their former conditions, resume the habit. Years of imprisonment, where teetotalism is rigidly enforced and where the diet is of a non-stimulating character, did not make the men who were submitted to it abstain from drinking on their release. The objectionable habit can only be cured through being replaced by something which is of equal interest, has greater power, and enables the man to live his life without being a nuisance to his neighbours.

When men or women are placed in association with one another, they have to find some common bond of interest. In every voluntary association this is recognised. Religion causes some to cut themselves off from the world and to devote their lives to its pursuit. Men differing in social positions, in age, in experience, in character, in temperament, join together to form a community. The one thing they have in common is their form of belief. They may differ as widely as possible in their views on other subjects, but these differences are not the thing that holds them together. They would rather tend of themselves to break up the association, since disagreement drives



people apart. The differences are only tolerable because of the bond of agreement which is strong enough to compensate them. On this subject and around it they may talk. The experience of each will interest the other, will enlighten him, will at any rate be considered by him. The same is true of political associations. Differences there are amongst the members, but these differences cannot go beyond the point at which some common agreement balances them, without breaking up the association.

Inebriate Homes and other reformatory institutions are not voluntary associations, but there can be no intercourse amongst their inmates that is not based on some experience common to them all. In the Inebriate Homes the common factor is inebriety. However much the inmates may differ in other respects, in this they are all alike: that they have indulged in drink to such an extent that the law has interfered to deal with them, and so the question that every newcomer has to face is, "Why are you here?" They are compelled to associate with one another, and they will get on the better together for each knowing something of the others' story. Scenes are recalled that had better be forgotten. Time spent in regretting the past while detailing its incident may result, and often does, in a repetition of the evils which are deplored.

Better that the mind should dwell on something else than on the errors of time past. It is a common thing to see a man begin to tell a wild episode or experience of his earlier years, and to observe that beneath his expressions of criticism and regret there is a certain tone of satisfaction that he has been through it, and a lingering reminiscence of the enjoyment he has had in it. He condemns the folly, admits it was a mistake, and shows quite clearly that it was



quite a pleasure at the time. Talking over the past brings it back and keeps the memory of it alive, and persistence in this course may cause that which has been regarded with disgust to become a thing that is desired, even a thing that is longed for. I remember a conversation with an inmate on the occasion of a visit I made to an Inebriate Home. I had known her as a habitual offender for years before her reformation was undertaken, and at this time she had been in the institution for more than a year. I congratulated her on the improvement in her appearance, and at the end of our talk she said, "It's a' quite true, I am better housed than I ever was. Ma meat is a' that a body could want, and I get it mair easily than I did outside. The work's no o'er-hard, and the officials are kind. There are bits o' rows, of course, noo and then ; whaur there are so many weemen you couldna expect onything else ; but there's naething to complain of. The country's real bonny in the summer, but I get tired of the country. I am a toon bird like yoursel', doctor, and I weary for the streets." I suggested to her that since she was so well off and could be suited on the expiry of her term with a place where she would not have the same inducements to drink as she had had, she should make up her mind to keep away from the town ; but she answered, "No ; it's a' very nice and comfortable, but I wouldna gie a walk doon the Candleriggs for the haill o' it." Of course she ultimately had a walk down the Candleriggs, followed by a drive to prison ; but it was quite apparent that this longing for her old haunts was the result of her failure to be impressed by interests that were equally absorbing, and that would become more powerful. Had such an interest developed in her, the Candleriggs would have been merely an empty senti-



ment. It would have occupied the position that "Bonnie Scotland" has in the minds of so many of the Scots who, having taken up their residence abroad, and having become absorbed in their affairs, stay there—afraid to return lest they lose even the sentiment. Just as in the religious community the members are stimulated to well-doing, in the reformatory the association of people whose common bond is their offence stimulates them to wrongdoing, or at least tends to hinder them from breaking off their old interests.

Institutional life has points of difference from life outside, which cause the formation of habits that are detrimental to the inmates when they return to the community. They are lodged usually on the model of the barracks; though this does not apply to the lodging of prisoners in prison, as they have separate rooms. Outside an institution most people do not sleep in dormitories or live in common rooms. They may live and sleep in the same room, but the only lodging outside which is on the same model as the dormitory is the common lodging-house, and that is the last place to which anyone would desire that a reformed offender should go.

In an institution division of labour is carried out for reasons of economy. The superintendent directs that different sets of people should perform different duties. Even if all the persons are changed at intervals from one set of duties to another, with a view to each inmate learning to do all parts of the work which is necessary in order that the place may be kept in proper condition, the habit formed is different from that of the housewife outside, who daily has to go over the whole round of her work. She is not responsible for doing a part, knowing that some other is responsible for some



other part. Not only each part of the work engages her attention in its turn, but she is accountable for the whole ; whether she does it well or ill is beside the point, which is, that there is nobody to rule her and no one whom she can hold accountable for her neglect. The habits of housekeeping acquired by the inmates of a home may tend to make them good servants, but they are certainly not the kind likely to make them more fit than they were to undertake the management of a house of their own ; for they do not manage, they are managed.



## CHAPTER VII

### THE PREVENTION OF CRIMES ACT (1908)

The Borstal experiment—Provisions for the “reformation of young offenders”—Is any diminution in the numbers of police expected?—Preventive detention—The implied confession that penal servitude does not reform, and the insistence on it as a preliminary to reform—The prisoner detained at the discretion of the prison officials—The powers of the Secretary of State—The change under the statute—The necessary ignorance of the Secretary of State by reason of his other duties—The “committees”—The habits to be taught—The teaching of trades—The ignorance of trades on the part of those who design to teach them—The difficulty of teaching professions in institutions less than that of teaching trades—The vice of obedience taught—Intelligent co-operation and senseless subordination—The military man in the industrial community.

**S**OME few years ago the English Prison Commissioners began a modified system of treating certain offenders. Borstal Prison was set apart for the purpose, a staff was specially chosen, and young offenders were selected for experiment. It was a notable departure, and the authorities seem to have been satisfied with the results. Either they had power to undertake the experiment or they had not. In the former case there was no need for an Act of Parliament to give authority; in the latter case they must have been breaking the law. If they were within their powers there was nothing to hinder them from extending their beneficent work. That work would necessarily depend for its success on the experience



and special ability of those who performed it. If the men in office in other prisons do not possess similar qualifications for the work no statute will confer them ; but it may cause them to have duties placed upon them which they are not fitted to discharge. So long as the treatment had to be justified by its results, it would be fairly safe to assume that only those who could prove their fitness would direct it ; now it needs as little of such justification for its continuance as do the Inebriate Homes.

The Prevention of Crimes Act (1908) deals with the "Reformation of Young Offenders," and the "Detention of Habitual Criminals." The young offenders must be not less than sixteen and not more than twenty-one years of age ; but the Secretary of State with the concurrence of Parliament may make an order including persons apparently under twenty-one, if they are not really over twenty-three years of age. The young offender must be convicted on indictment of an offence for which he is liable to penal servitude or imprisonment ; and it must be apparent to the Court that he is of criminal habits or tendencies, or an associate of bad characters. The Court must consider any report by the Prison Commissioners as to the suitability of the offender for treatment in a Borstal Institution ; and may send him there for not less than one and not more than three years. In Scotland the Secretary of State may apply the Act by Order, and may call the institution by any name he chooses.

If a boy in a reformatory commit an offence for which a Court might send him to prison, he may instead be sent to a Borstal Institution, his sentence then superseding that in the reformatory school.

The Secretary of State may transfer persons within the age limit from penal servitude to a Borstal Institution.



The Secretary of State may establish Borstal Institutions, and may authorise the Prison Commissioners to acquire land, with the consent of the Treasury, and to erect or convert buildings for the purpose, the expense to be borne by the Exchequer. He may make regulations for the management of the institution, its visitation, the control of persons sent to it, and for their temporary detention before their removal to it.

Subject to the regulations, the Prison Commissioners, if satisfied that the offender is reformed, may liberate him on licence at any time after he has served six months—in the case of a woman, after three months; and the licence will remain in force till the expiry of the sentence, unless it is revoked or forfeited earlier, in which case the offender may be arrested without warrant and taken back to the institution. Subject to regulations, the Prison Commissioners may revoke the licence at any time. If a licensed person escapes from supervision, or commits any breach of the conditions laid down in the licence, he thereby forfeits it; and the time between his forfeiture and failure to return is not computed in reckoning the time of his detention. The time during which he is on licence, and conforming to the conditions therein, counts as time served in the institution.

Every person sentenced to detention in a Borstal Institution remains under the supervision of the Prison Commissioners for six months after his sentence has expired; but the Secretary of State may cancel this provision where he sees fit. The Prison Commissioners may grant a licence to any person under their supervision, and may recall it and place him in the institution if they think this necessary for his protection; but they may not detain him for more



than three months, and they cannot detain him at all when six months have passed since his sentence expired.

Young offenders detained in Borstal Institutions, if reported as incorrigible or as exercising a bad influence on the other inmates, may be removed to a prison to serve the remainder of their term, with or without hard labour, as the Secretary of State may decide.

The person under licence must be placed under the supervision of some person or society willing to take charge of him, and named in the licence. Where a society has undertaken the assistance or supervision of persons discharged from the institution, the expenses incurred may be paid from public funds; but, curiously enough, the statute makes no reference to payment of persons willing to act as guardians.

A person may be moved from one Borstal Institution to another, and from one part of the United Kingdom to another. He is to be "under such instruction and discipline as appears most conducive to his reformation and the repression of crime"—which is sufficiently vague. The only thing of any importance in this part of the Act is the provision for letting the offender out on licence. If it is used to board him out, some progress may be made; but if it is merely used to provide funds for some society of philanthropists to play with, there is little ground for the hope that it will do much for the offender.

The second part of the Act is more peculiar than the first. It is designed to deal with the case of the habitual offender, and as originally drafted it provided for retaining him in custody, if the officials thought proper, for the rest of his life. This would have been nearly as certain a preventive as hanging him, and would have been much more costly.



A consequence that might be expected to spring from the prevention of crime would be a diminution in the numbers of the police. It is their duty to arrest criminals, and if the criminals are shut up their occupation is gone. It is a striking fact that during all the discussions which took place on the measure, nobody suggested that as a result of its operation there would be any smaller number of policemen required. There was no likelihood of it; for crime will not be prevented to any great extent by the institution of "reformatories"—experience has shown that very clearly—but it will be diminished to some extent while the professionals are incarcerated. This has been tried and found insufficient and unsatisfactory. The new Act makes provision for the care of people who have been liberated from Borstal Institutions, and for the reformatory treatment of those who have become habituals after graduation in crime and in prison experience—neither of which qualifications makes it easier to deal with them.

The "habitual criminal" of the statute is one who, between his attaining the age of sixteen years and his conviction of the crime charged against him, has had three previous convictions and is leading persistently a dishonest or criminal life. Such a person, after being sentenced to penal servitude, may be ordered to be detained on the expiration of that sentence for a period of not less than five and not more than ten years, at the discretion of the Court. The charge of being a habitual offender can only be tried after he pleads or has been found guilty of the crime for which he has been indicted, and seven days' notice must be given the offender of the intention to make such a charge. The Court has a right to admit evidence of character and repute on the question as to whether



the accused is or is not leading persistently a dishonest or criminal life. The person sentenced to preventive detention may appeal against the sentence to a Court consisting of not less than three Judges of the High Court of Justiciary, in Scotland. The Secretary of State may, in the case of persons appearing to be habitual criminals and undergoing sentence of five years' penal servitude or upwards, transfer them, after three years of the term of penal servitude have expired, to preventive detention for the remainder of their sentence.

Prisoners undergoing preventive detention shall be confined in any prison which the Secretary of State may set apart for the purpose, and shall be subject to the law in force with respect to penal servitude; provided that the rules applicable to convicts shall apply to them, subject to such modifications in the direction of a less rigorous treatment as the Secretary of State may prescribe. This means that the person convicted has to be dealt with by the same officers who have been dealing with him when he was called a convict prisoner. There is no reason to assume that their ability to make him better than he was will be increased because an Act of Parliament has been passed. A change of labels, however dexterous, does not alter the character nor will it change the atmosphere of the prison.

“Prisoners undergoing preventive detention shall be subjected to such disciplinary and reformatory influences, and shall be employed on such work as may be best fit to make them able and willing to earn an honest livelihood on discharge.”

This subsection is wide enough to include all reform. It implies that prisoners are not subjected to such disciplinary and reformatory influence, and are not



employed on such work as may be best fitted to make them able and willing to make an honest livelihood on discharge ; but if this implication is justified, why should they not be placed under helpful conditions from the first day of their imprisonment ? To one who is not a legislator it appears foolish to insist that offenders should be placed under conditions which do not fit them to live honestly outside prison, and that this process should be repeated until they have become habitual criminals, before it is ordered that steps shall be taken for their reform. What are the influences ordered by Parliament, and what is the work they have to be taught which will make them able and willing to earn an honest livelihood ? Surely no Member of Parliament is credulous enough to believe that the influences and the work that will tend to make one man better will be suitable to all men. Even Members of Parliament do not all conform to the same rules, and there are as many differences among criminals as among legislators.

“The Secretary of State shall appoint for every such prison or part of a prison so set apart a board of visitors, of whom not less than two shall be justices of the peace, with such powers and duties as he may prescribe by such prison rules as aforesaid.”

“The Secretary of State shall, once at least in every three years during which a person is detained in custody under a sentence of preventive detention, take into consideration the condition, history, and circumstances of that person, with a view to determining whether he should be placed out on licence, and if so on what conditions.”

“The Secretary of State may at any time discharge on licence a person undergoing preventive detention if satisfied that there is a reasonable probability that



he will abstain from crime and lead a useful and industrious life, or that he is no longer capable of engaging in crime, or that for any other reason it is desirable to release him from confinement in prison.

A person so discharged on licence may be discharged on probation, and on condition that he be placed under the supervision or authority of any society or person named in the licence who may be willing to take charge of the case, or of such other conditions as may be specified in the licence.

The Directors of Convict Prisons shall report periodically to the Secretary of State on the conduct and industry of persons undergoing preventive detention, and their prospects and probable behaviour on release, and for this purpose shall be assisted by a committee at each prison in which such persons are detained, consisting of such members of the board of visitors and such other persons of either sex as the Secretary of State may from time to time appoint.

Every such committee shall hold meetings at such intervals of not more than six months as may be prescribed, for the purpose of personally interviewing persons undergoing preventive detention in the prison, and preparing reports embodying such information respecting them as may be necessary for the assistance of the Directors, and may at any other time hold such other meetings and make such special reports respecting particular cases, as they may think necessary."

A licence may be in such form, and may contain such conditions as may be prescribed by the Secretary of State.

The Secretary of State is the figure who has all power over the person sentenced to preventive detention; but the Act does not give him any power that he did not before possess. The Secretary of State



has always held and used a dispensing power regarding the sentences passed on prisoners. He has not only remitted sentences, but he has imposed conditions while granting a remission. The Act does not even limit his power, for as the representative of the King he may liberate anybody if he sees fit. What the Act does is to set up machinery whereby the Secretary of State may be moved. Hitherto some personal interest must have been taken by him in a case before the exercise of the Royal prerogative would be recommended by him, for he would require to be prepared to justify his action if questioned in Parliament. The Act alters all that in so far as it applies and makes matter of routine what was exceptional.

The Secretary for Scotland is the head of all the departments of administration, and being the head of all, is not likely to know, intimately, much about any of them. He has his parliamentary duties to attend to, and the more they press on him the more administrative work must he leave to the permanent heads of the departments. One Secretary of State may obtain, and may deserve, a better reputation for administrative capacity than another; but it is absolutely impossible to expect any one man to know intimately the details of the work of all the departments. He is responsible for education, for instance, but what can he know personally of the educational needs of a boy in the east end of Glasgow? Yet he prescribes for the education of all boys, as though it were easier to know about thousands than about one. As head of the Local Government Board, he has to state what amount of relief should be given to poor people in different parts of Scotland, what amount in grant should be given to distress committees, and what kind of work the unemployed should do. He never is a man who has had



any experimental acquaintance with poverty, or who knows by experience what distress is entailed in a working-class family by dull trade; and manual labour has not been his occupation. Yet it is not the representatives of these people who instruct him. It is the Board of which he is the head, and whose members, however able they may be, are less in contact with those for whom they prescribe than he is. He is head of the prisons department, and he may now and then visit a prison; but even a Secretary of State, one might go further and say, especially a Secretary of State, cannot gain much intimate knowledge of prisons and prisoners from a casual visit. He has too many things to do, and the man who has too many things to do seldom does anything. He leaves that to his assistants. If Solomon undertook and tried to do as many things as a Secretary of State is supposed to do, he would lose his reputation for wisdom in a week; but he wouldn't be Solomon if he tried; and so the Secretary of State, on the advice he receives, has to determine the fate of the prisoner who is under sentence of preventive detention. Once in three years every such person has to come under his notice. This can only be done through reports.

These reports have to be made by the committee set up under the Act, which committee is appointed by the Secretary for Scotland. It would be too much to expect that he should know the local circumstances in every case, and the men appointed may only be those recommended to him by his officials. That these will be men of good repute there need be no doubt, but there is no reason to suppose that they will be the men best fitted to represent the public, or most likely to have an intimate acquaintance with the conditions under which the prisoners have



lived. If the officials had themselves shown any aptitude for dealing with prisoners in a reformatory way, there might be some reason for assuming that their nominees would be persons whose experience of life and the character of whose abilities would be of such a nature as to fit them for the work they are supposed to undertake. Men of ideas, especially if the ideas are not officially approved, are not at all likely to find themselves nominated for such work. They would cause trouble, and it is better that things should not be done than that Israel should be disturbed.

The committee have to meet at intervals for the purpose of personally interviewing those who are under their care ; and the value of their reports will depend on the intimacy of the knowledge they gain regarding the persons interviewed and on its accuracy. Apparently they need not meet more frequently than once in six months. Such a provision is too nakedly absurd to deserve discussion. Apparently they have to report to the Prison Commissioners, who report to the Secretary of State. The position is therefore something like this—that prisoners after they have served prolonged periods in prison may be transferred to another part of the establishment in order to be reformed. In their new quarters the treatment they receive is to be less rigorous than it has been. The influences under which they have to be brought are described but not defined. The officers may be the same as those who were called warders in the other part of the prison, but they may have a new name—perhaps a new uniform. If the person satisfies the Secretary of State, whom he will never see and who knows nothing about him personally, that he is a reformed character, he may be liberated on licence ; and he



may seek election to the ranks of the licensed once in three years. His conduct and record will then be considered. What will determine the character of the record obviously is the impression he makes on those who come into contact with him. That is to say, he will mainly depend on the report of the warder, for after all, does he not know most about the man? He certainly sees more of him than does any other body. A form will be devised which he will regularly fill in. Government institutions are notable for forms. It will provide for a record of the prisoner's conduct, behaviour, intelligence, and all sorts of things, and will no doubt be as ingenious a production as any of the numerous specimens which result from our practice of government by clerk. The warder will report to the head warder, who will report to the Governor. The Medical Officer will report as to the health of the person, and all the reports will go on to the Prison Commissioners, and from them to some clerk in the Scottish Office, who has satisfactorily passed a Civil Service examination on the Boundaries of the Russian Empire, the death of Rizzio, or some such important educational subject, and who has never had any opportunity to know anything about prisoners save what can be learned from books, reports, and an occasional visit to prison. The reports will be carefully checked, weighed, and summarised, and the Secretary of State will sign the order made for him.

It is perfectly obvious that the higher up in the official scale one goes, the less intimate knowledge of the lives of prisoners, of the social conditions under which they lived outside, and of their needs, can you reasonably expect to find as things are at present arranged. The man who has the best chance to get a licence under the Act is the man who can dodge best.



All our experience points to the fact ; and it is not uncommon for the most objectionable character, by subservience and sycophancy, to impress favourably those who have the dispensing of privileges, and this is not confined to prisons or prisoners.

When a prisoner is liberated on licence from a place of preventive detention and placed under the supervision or authority of a society or person, the society or person has to report in accordance with regulations to be made to the Secretary of State, on the conduct and circumstances of the licensee. The licence may be revoked at any time by the Secretary of State, when the person licensed must return to prison. If the person under licence escapes from the supervision of those under whom he has been placed, or if he breaks any conditions of the licence, he forfeits it altogether, and may be brought before a court of summary jurisdiction and charged with breach of licence, and on proof be sent back to the place of preventive detention. The time during which a person is out on licence is treated as a part of the term of detention to which he has been sentenced ; unless he has failed to return after his licence has been revoked, in which case the time during which he may have been said to have escaped does not count as reducing the term of his sentence. The conditions of licence may be withdrawn at any time by the Secretary of State, and the person licensed be set absolutely free ; but in any case, after he has been out on licence for five years the power to detain him lapses, provided he has observed the conditions of his licence during that time.

In both the Borstal and the Preventive Detention Institution it is intended to teach the inmates habits and pursuits that will be useful to them in the world outside. What these are will altogether depend on



what is to happen to them on liberation. No institution has yet been devised that even remotely resembles anything like the life that its inmates have to anticipate.

A great deal has been written about the advisability of teaching trades to persons in institutions, but the writers are never themselves artisans, and if they had any practical knowledge of the subject they would not write; there would be nothing to write about. More goes to the learning of a trade than the handling of the tools. Men have not merely to learn how to do a thing, but how to do it in association with other workers. They learn the trade not from the lectures of a teacher or the instructions of a foreman, but from watching the work of others, and imitating or avoiding their methods, as seems most suitable. Take the two best tradesmen in almost any workshop, and you will find that they set about their work each in a different way—each in the way he has found best suited to himself. The apprentices learn from them; and the lad or man who wants to learn a trade, is ill-advised indeed if he goes to a workshop where there are as many apprentices as journeymen.

It used to be said that the first year of a joiner's apprenticeship was served in sweeping the shavings and in boiling men's "cans"; and there was a good deal of truth in the statement. The best tradesmen I have known spent the first part of their apprenticeship knocking about the workshop, fetching and carrying for others, and unconsciously receiving impressions and gaining knowledge. The worst I have ever known were one or two whom the foreman thought, when they entered on their apprenticeship, to be too old for him to put to such work, and who were chained to the bench right away.



In an institution where it is undertaken to teach lads or men trades, not only are the conditions less favourable than those outside, but they are actually opposed to them. In fact, you have a company composed almost entirely of apprentices. There are no journeymen. There is only a foreman in the shape of the instructor; and as the longer he is there the more out of touch he is with the changes in method that have taken place amongst his fellow-tradesmen outside, he is only capable of telling his apprentices how he would do the thing, which in a workshop they might do better by following a plan more suitable to them. If he has to overlook their work they cannot be overlooking his; and while he is criticising their efforts and keeping them in order he cannot be showing them an example.

Every tradesman and every employer knows that it is an important question, not only whether a man has served his apprenticeship, but where he has served it. Of course, under the most favourable conditions some men do not become good tradesmen; they may have gone to the wrong occupation for them; but there are conditions that are generally more favourable than others for the production of capable workmen, and these conditions cannot possibly exist in an institution. Exceptions trained there may turn out passable workmen and may find work outside, but the result of trying to teach trades in an institution will be that at considerable expense you will increase the number of bad tradesmen; and there are plenty.

I do not say that nothing can be taught in an institution. Many things are learned there. The whole point is that they are not the things that make for efficiency outside.

It is easily seen how a man who has not himself



been trained in a handicraft may believe that it can be taught as well in one place as another, although if you consider his own occupation and suggest that his profession too might be taught anywhere, he will readily see objections. The people who are notably interested in prison reform are largely drawn from the professional classes and from the well-to-do. It may be quite possible to teach a prisoner or the inmate of a reformatory to acquire the habits and the manners of an independent gentleman. Of the feasibility of the proposal, were it ever made, I am not qualified to speak ; but, as an observer, one cannot help seeing that many of them have already acquired the habit of doing as little useful work for themselves as possible, and of expending a good deal of energy in directions that are not socially productive. The clergyman would reject as impracticable any proposal to train the reformed in an institution for entry into his profession ; and yet abundance of quiet and of time for study could be obtained there, and there does not seem to be anything to hinder the teaching of theology, of literature, or of philosophy, from taking place within its walls.

There is, of course, the question of brains. It is a great mistake to assume that brains are the monopoly of any class, or that they play a more prominent part in the work of professional men than in that of others. So far as the training is concerned, there is no ground for assuming that selected inmates of reformatory institutions could not be had who are as well qualified by natural endowments to receive instruction of an academic character, in as large numbers, as others who would be fitted to receive instruction in the working of wood or of metal. Of course there are other reasons why ministers should not be trained in prison. There is the question of moral character ;



and though reformed desperadoes have become noble beings before now, I do not think that even the most enthusiastic evangelist would consider it safe to assume that a man who has failed to conform to the laws of the community is a safe person to train for the ministry.

This question of character would not be so generally admitted against any proposal to train the inmates of a reformatory institution as lawyers ; but although a man might acquire all the useful information and general knowledge that are required for examination as a preliminary to admit him to the study of the laws of his country ; although he might master the text-books and become learned in the records of legal decisions quite as well in a prison as in a lodging outside ; no lawyer would admit that thereby he could qualify to practise his profession. He would insist that there is something more required in his experience than the mere knowledge of the laws and of case-books. Being a lawyer, he could set out at length what that something is.

So there is something that marks off the man who has been trained under the artificial conditions which exist in an institution from the man who has been trained outside. I knew of a blacksmith who was a very useful tradesman while he remained in the institution where he had learned that trade. He obtained work outside on several occasions, but he lost it always, not through any misconduct on his part, but through sheer inefficiency. Some things he could do, but most things he could not do ; and his employers found him an unprofitable servant, partly because of his limitations and partly because his methods impaired the efficiency of those with whom he worked. In my day I have served an apprenticeship both to a handicraft and to medicine, and I have no doubt whatever that



it would have been as easy for me to train for my medical qualification in prison as to have qualified myself as an artisan in an institution.

It is assumed that what the offender needs is above all to be trained in habits of obedience, as though that were not what he has always been taught when in any prison; and much good our training has done him.

I know as little about military affairs as the military men who are appointed to manage prisons and prisoners know about the duties they undertake when they are appointed, but I do know something about the worship of discipline. Discipline means not knowing more than the man above you, no matter how difficult it may be to know less. There must always be twice as much wisdom and truth in anything the superior officer does or says as there is in the actions or words of his inferiors; and it is insubordination to behave in ignorance or in contempt of this great principle.

At school we were taught a story about a man named William Tell, regarding which the later critics dispute the accuracy. It seems that a high military personage called Gessler set his cap upon the top of a pole in the market-place and commanded the people to bow down to it. Tell refused to do so, and was seized and compelled to enter on a test of his skill in archery; and so on. Whether the story about Tell is true or not, there can be no doubt about the cap; in one form or other it is still a symbol of authority, to be saluted with respect by the common people. In Scotland we had a song about Rab Roryson's Bonnet, but "It wasna the bonnet, but the heid that was in it," that was the real subject of the ditty. Discipline pays no regard to the head that is in the



cap. The cap is the thing, though it may be placed on a pole.

Everybody knows that the old cap of knowledge in fairy tales has no longer an existence, and that absence of what is called brains will not be compensated for by any covering of the skull, whatever pretence may be made to the contrary.

Of the virtue of obedience we hear a good deal, and if we look around us we will see evidences that it may be no virtue at all, but a vice. In one of the best known of his poems Tennyson describes the soldiers: "Theirs not to reason why: Theirs not to make reply"; and there are many who think it a noble thing to teach a man not to use the brains he has, and to die rather than show disrespect to his superior by questioning his competence. This may be a military virtue, but it is a civil vice. If it did not work outside so badly in practice, it might be allowed to pass unquestioned; but one has only to look around to see the result of its application. The men who come under its operation are not rendered more efficient citizens thereby, but are hindered by the training they have undergone from obtaining employment in industrial life.

Subordination there must be before there can be combined action on the part of men for any purposes, but there need not be senseless subordination. In any iron-work, for instance, where men work together, they each take their own and other men's lives in their hands daily. When they are acting in concert a false step, a careless act, on the part of anyone, may bring injury or death on himself and others; and they know this and behave accordingly, or no work would be possible. For the inefficient person there is no room, and when serious work has to be



done Gessler's cap has no place ; there is only room for William Tell.

Men discharged from the army find difficulty in obtaining employment. It is not that they are worse men than their neighbours. It is because they have received the wrong kind of training. Employers do not prefer others to them from any absence of patriotism, but from a desire for efficiency. They cannot afford in industrial occupations to have people about them who have learned that it is "theirs not to reason why." They prefer those who have been taught to use all the sense they have in dealing with their work. In short, the person who during the most formative years of his life has been employed industrially, makes a better workman than the man who during these years has been taught to wait for the word of command before he does anything. Yet we have people going all over the country trying to convince their fellow-citizens that there is no salvation for us unless all young men are subjected to a period of military training, apparently in ignorance of the fact that those who have had that training have difficulty in competing industrially with those who have none. It may be true for other reasons, for purposes of defence, that we ought to learn to shoot, though for my part I believe that most men are more likely to be sick sometime in their lives than to be engaged in fighting with people of whom they know nothing. That would seem to be an argument for their being taught how to preserve and care for their own rather than how to destroy somebody else's health ; but Gessler's cap is still in the market-place, and it is rude to say anything about it. Yet it is not the bonnet, but the head that is in it, that matters in the long run.



## CHAPTER VIII

### THE FAMILY AS MODEL

The basis of the family not necessarily a blood tie—Adoption—The head and the centre of the family—The feeling of joint responsibility—The black sheep—Companionship and sympathy necessities in life—Reform only possible when these are found—“Conversion” only temporary in default of force of new interests—The one way in which reform is made permanent.

**O**NE great mistake made by those who consider social problems is that they either regard man apart from his surroundings or as one of a mass, instead of as a member of a family or group. Family life is the common form of social life, and whatever its defects, it is the form that is likely to persist without very great modification. The family is based on marriage, and the parties married are not one in blood, though the children of the marriage are. The family tie, therefore, is not solely a blood tie. The members are brought up in a sense of mutual obligation and in the knowledge of their interdependence.

Occasionally adoption is a means of entering a family. When a person is adopted early in life, it is difficult to perceive any difference in the tie that binds him and the other members of the family. There is another and a temporary adoption which is much more frequent than is generally imagined, and the existence of which prevents a great many lads and more girls from becoming destitute and from drifting into



evil courses. In Glasgow there are many young persons who, having no relatives of their own with whom they can live, or the relatives being unwilling to take them in, obtain lodgings and help from others. In the case of the girls, they pay a portion of their earnings to the common treasury and give their services in aid of the work of the household, being treated in all essential respects as members of the family. Many of them are not earning a wage sufficient to enable them to pay for lodgings at the ordinary rate; and it is this arrangement that explains why so many who are in receipt of small wages are able to live respectably, and do so. Attempts have been made to provide hostels for such wage-earners, on this very ground that their income is insufficient to enable them to hire a room with attendance; and the hostels are frankly admitted to require charitable aid for their upkeep, though they are in their management institutional; that is to say, they aim at economy by the subdivision of labour. It never seems to have occurred to those who appeal for funds to establish such places that the girls in the majority of cases have solved the problem for themselves, by what I have called, and what practically is, a kind of adoption; and that their solution is the correct one—that the minority who have failed to obtain adoption can be better helped by securing it for them, if necessary by subsidy, than by bringing them together in an institution.

A good many jokes have been made as to who is the head of a household—the man or the wife; and the question is occasionally a subject of dispute; but in the family authority tends to adjust itself. It can only exist when there is mutual toleration and respect. Each member may be acutely conscious of the shortcomings of the other and may discuss



them freely, but they all tend to unite against outside criticism, and if they are aware of each other's demerits, they are equally sharp to recognise qualities which help to their advancement. So that while one member may be the head of the family, another may be the centre of the family. It is not always either the father or the mother that exercises most influence in the family council. These matters are determined by circumstances, and when there is discord and disunion it is almost invariably due to a disregard of natural aptitudes and tendencies in the children, and to an insistence on parental rights in the narrow sense.

The enforcement of mutual responsibility implies the recognition of mutual power. The community in which we live is mainly made up of families. Yet men are considered as individuals, legislated for, and supervised as though this were not the case; and the authorities, instead of working through the family on the individual, contrive to raise the family feeling against them. The State is not an aggregation of men, but an aggregation of families; and when men are considered in the mass they are considered without relation to their usual surroundings. It has been pointed out that the crowd takes on characters different from the individuals composing it, but it is quite wrong to imagine that men have ordinarily to be regarded as units in a crowd. Attempts are made to supervise men in masses; that is what takes place in institutions. Individuals are supervised in certain circumstances outside, but they are best supervised in conjunction and in co-operation with the members of the family of which for a time they form a part.

If every family has not its black sheep, in most cases it has some one of its members whose capacity is not equal to that of the others. In some of the cases



the direction in which the weakness is shown is one that leads to breaches of the law. There are many children in every city who are a great trial to their parents, and there are parents who sorely try the patience and resources of their children. There are families who spend care and effort to prevent one of their members from becoming worse than he is and in endeavouring to lead him into better courses ; but the community does nothing to help them in their efforts until they drop their burden or are compelled to relinquish it, when the authorities promptly proceed to apply official methods of treatment. We have reached the point where it actually pays the family financially to disclaim responsibility, for the State will do all (even though it does it badly) or will do nothing. It would be cheaper in every sense to help those who are trying to bear their responsibility—who are willing, though their circumstances make them unable—than to do as we have done ; and acting on the ignorant assumption of our own knowledge, wait until evil has developed so far as to be unbearable and then put the evil-doer through our machinery.

Unless the offender is brought into sympathetic contact with someone in the community, who will enable him to resist temptation and encourage him in well-doing, he never does reform. There are people who attribute the change in their conduct to a conversion, sudden or otherwise, towards religion. The more sudden the change in their mental outlook the greater danger they are in ; for the severing of an evil connection, though a necessary step, is not all that is required. In a community such as ours a man cannot stand alone. He cannot forsake his company and his accustomed pursuits and become a hermit, living the life of an early Christian sent into the wilderness.



He has to remain in the world and live out his life there. He must not only be converted from his former courses, but turned to better courses. He cannot get on without company. He cannot even earn his living alone; and the great advantage the convert has in our place and time is the assurance that he will be supported by others of like mind with him. They will find work for him and fellowship, and they fill his time very full; but only in so far as good comradeship is established between him and others is he likely to remain steadfast. Comradeship deeper than the sharing of a common theological dogma and a common emotionalism is the only security for his reformation.

To the man whose life has been passed in sordid surroundings, whose work has been monotonous and laborious, and whose pleasures have been gross, the more emotional the form in which the religious appeal is presented the greater its chance of success. He becomes filled with the spirit—a different kind of spirit from that which has hitherto influenced his actions—but the result is an excitement and an exaltation as pronounced as any he felt in the days of his iniquity. No one can listen to the convert at the street corner without being struck by the fact that while he is detailing and perhaps magnifying the nuisance he was before his regeneration, he is as much excited and makes as much noise as he did in those days. In some cases his public behaviour makes little difference to his neighbours, for he is no quieter than he was; though, instead of sending them to hell as he did in his wrath, he now tells them that they are going there. Of course there is a world of difference both to them and to him as a result of the change in his outlook. His conduct is improved, if his manner is not; but every period of exaltation is liable to be



followed by one of depression, and this is the danger to which his emotionalism exposes him.

The best way to prevent a man from falling back into his old habits is to keep him too busy in the formation of new ones to have any time to turn his attention to the past. We hear it commonly said that the way to hell is paved with good intentions, but just as truly the way to heaven may be paved with bad. If men are distracted from doing the good they intend by something less worthy, they are as often prevented from doing the evil they had concerted through something interposing and claiming their interest. Religion, then, may be a very potent influence in starting a man on a new course of conduct, and its spirit may inspire him to continue in the way of well-doing; but his perseverance will depend far more than he thinks on his adaptation to the company of the religious, and his interest in their work and their lives. Almost as little will the love of good keep him from the world, the flesh, and the devil, as the love of evil will make him a criminal.

For the most part men are not wicked because they prefer evil to good, but because they have come under the influence of evil associations which appeal to something in them. The man at the street corner who speaks about serving God is, at any rate, logical when he talks about having served the devil; but in those old bad days he did not consider the devil at all. He did what pleased him best, quite apart from any desire to have the approval of the Prince of Darkness. It is only after his conversion that he discovers that all his life he had been serving Satan without recognising him, and it is equally possible, surely, for men to serve God without recognising the fact. It is just as possible for a man to do good and to live well,



without thinking of anything beyond his pleasure in doing so, as to live wickedly from the same reason. In both cases the fellowship of others has a great deal to do with the matter.

There is only one method by which a prisoner is reformed, and that is through the sympathetic guidance and assistance of some person or persons between whom and him there is a common interest. An employer engages an ex-prisoner and shows that he really desires him to do well. He must not patronise him, but he has to impress in some way the person he would help with the idea that he believes in him. He has to revive in him a feeling of self-respect. How is this done? There is no convenient formula. The man whose manner attracts one may repel others. Religion, which most powerfully influences some, shows no power to attract many; and the man who will be deaf to one form of appeal may respond to another. It is simply foolish to assume that because our attempts to correct a man have failed he is incorrigible. All we can say is that we have failed because we have not been dealing with him in a way suited to him. Sometimes it is an old acquaintance or a fellow-workman that impresses him and leads him to a new interest in life. Whoever moves him, and however it may be done, it is only a new interest that will expel the old. It never is what a man is taught, but what he learns, that moves him.



## CHAPTER IX

### ALTERNATIVES TO IMPRISONMENT

What is required—The case of the minor offenders—The incidence of fines—The prevention of drunkenness—Clubs—Probation of offenders—Its partial application—Defects in its administration—The false position of the probation officer—Guardians required—Case of young girl—The plea of want of power—Old and destitute offenders—Prison and poorhouse.

**I**F the present methods of treatment mainly result in the liberation of men and women from prison in a condition that makes it difficult for them to do well—sometimes more difficult than it was before they were sent there—it follows (1) that no one should be sent to prison if there is any other means to protect the public from him; and further (2) that no one should be liberated from prison unless the community has some guarantee that it will not suffer from him. In short, what happens to the prisoner in prison is of secondary importance to the public. Of primary importance is, what is likely to happen to them when he comes out. The first consideration should be: How can you deal with people who have offended so as to avoid making them worse and to ensure that they will behave better? Unfortunately, one main concern of many is how they can make the culprit suffer. One of the effects of retributive punishment is to make those who undergo it less fit, physically or mentally, than they were before its infliction. We



must make up our minds whether we really desire to correct the offender or not, and if we seek his correction we must be prepared to throw overboard theories and practices which obstruct that end, whether they are old or new.

An examination of the reports of the Prison Commissioners for Scotland will suggest to anyone that a good deal might be done to diminish the number of committals to prison. According to the last report published (1910), there were 46,466 receptions of prisoners under sentence. As some were in prison more than once during the year, the number of individuals represented is probably about 23,000, and of these 9775 were in for the first time. Their sentences ranged from under one day to two years. There were 39,036 sentences of a month or less, and of these 22,696 were seven days or less ; 7949 of that number being of three days or less. These people have not much time to get accustomed to their quarters before they are liberated ; and if there were the means, there is neither the time nor the opportunity to make any thorough enquiry into their dispositions and way of living, with a view to help them.

As for the nature of their offences, there were 14,644 committals for breach of peace, disorderly conduct, etc. ; 12,274 for drunkenness ; 1982 for obscene language, etc. ; and nearly all these are offences inferring drunkenness. Where did they get the drink ? Apparently it was not from the public-houses, for from the tables it does not appear that anyone was sent to prison for breach of certificate. If the source of supply could be discovered and cut off, or at any rate made to flow less freely, it seems obvious that there would be a much smaller prison population. But is there any good purpose served by sending



people to prison for a few days? It is true the streets are rid of them, but such as are habituals go out simply revived by the rest and keen as ever for drink. I say the habituals, for time and again these return with sentences of two, three, five, or seven days. As for the casual offender, it would be far better to let him off, when he cannot pay a fine, than to send him to prison, thereby causing him to lose his employment and bringing him to bad company. In 1909 over 40,000 were sent to prison in default of paying a fine. Time to pay fines benefits many, but there are those who are too poor to be helped by it. At present a fine is imposed as an alternative to imprisonment; and as the public is only assured of the culprit's behaviour for so many days, positive gain, financially and otherwise, would result from placing him in bond outside a prison. At present, if the fine is not paid, the absurd condition of affairs is this: that a person fined in, say, twenty shillings or twenty days may disappear and not pay the fine in the time allowed him; three months after he may be found, arrested, and sent to prison for this failure to pay. The sentence of the court amounted to this: that if he paid twenty shillings he would be at liberty to do as he pleased, but if he failed to pay he would have his liberty restricted for twenty days at the public expense; they to be secure from misconduct on his part during that time. He has behaved for three times that period at no expense to the public; why, then, should their hospitality be forced on him? As long as people will behave outside prison there is no sense in sending them inside. Whether they are likely to behave can only be discovered after a more exhaustive and a different kind of enquiry than has hitherto been made in each case.

Minor offences form the great majority of our



committals, and drunkenness is an element in most of the cases. If a man does not get drink to excess he will not become drunk. Persons and premises are licensed for the convenience of the public, and it is not for the public convenience that anyone should be allowed to have a practically unlimited supply of liquor. One of the troubles of the man that takes drink is that he is not in a state to appreciate his own condition, and he is apt to imagine that he is much more sober than he is. No respectable publican wants to make men drunk ; but he wants to make money out of his business, and beyond certain limits he cannot be more particular than his neighbours. It is sometimes very difficult to say when a man is drunk, but it is easy to tell when he is not sober, and he is not entitled to the benefit of any doubt that may exist. It ought to be the business of the vendor to refuse drink to a man who has evidently had as much as is good for him. He may make mistakes, but they will be on the right side if he has to pay for them.

The very desire to prevent men being supplied with drink to excess has resulted in making the law, with regard to the supply of drink to intoxicated persons, something very like a dead letter. I have known a man to be convicted for being drunk and incapable at a police court, and though it was shown that he left a public-house in that condition after having had several drinks there, when the publican was brought to the same court on a subsequent date, to answer a charge of breach of certificate in respect that he had supplied drink to a man who was drunk, the charge was found not proven. The fine for such a breach of certificate would not have been nearly so great as the cost of defending the charge ; but a conviction would have resulted in the endorsement of the licence, and



might have caused its withdrawal. Now as the man depended on the licence for his livelihood, this was practically a sentence of death. In these cases the magistrates are exceedingly unwilling to convict and in consequence charges are seldom made.

If the penalty inflicted in the police court did not result in a larger penalty imposed by the licensing court, there would be less difficulty in dealing with the licence holders ; and if drunkenness is to be prevented they must be dealt with. Of course a man may get drunk in a private house or in a club ; making it more difficult for him to become intoxicated in a public-house would not prevent that ; but even so, it would tend to keep the streets free from disorder ; and if a man will take more drink than he can carry, it is alike better for his own health and for the public convenience that he should do it in private. There have been many complaints about clubs during recent years, and that some of them are vile places there can be no question. The evidence given in the court as to how these objectionable places have been conducted shows their character quite clearly, but in the worst cases the very fact that such evidence was in possession of the authorities is a grave reflection on their competence to suppress disorder. In some cases the clubs were little better than dens of thieves, to which half-intoxicated persons were lured to be robbed by people whose character was well known to the police. Raiding them avails little, but warning off those who would enter might avail much. Men in uniform placed at the doors would act as a sign to warn the unwary. The knave preys on the fool. Warn off his prey and he will starve.

If through a subsidence or otherwise there is a hole in a street into which a man might stumble and break



his leg, the place is barricaded off and a watchman placed there to warn the careless. Nobody would think of leaving the trap open, even though a sufficient ambulance service were provided to carry off the injured. When a place that is known to be a trap for the foolish is discovered, on the same principle it might be profitable to warn those who would enter it, rather than to wait until they had suffered loss and then seek to seize and convict those who had robbed them. There are more ways of closing an ill-conducted club than by withdrawing its licence ; but after all has been said, most of the drunkenness that disgraces our streets has not resulted from the consumption of drink either in private houses or in clubs, in spite of what the trade may say to the contrary. Indignation against clubs on the part of liquor-sellers is not due to zeal for temperance, but springs from jealousy of their own monopoly. They seem to think that men should not take drink unless they are permitted to make a profit in the process ; and it is just this question of profit that lies at the root of any effective dealing with the matter.

Our attempts to punish the drunkards are often ludicrous. It might not be so ridiculous to try to get at those who make a profit off the drunkard. He makes a loss ; we make a loss ; someone has profited. We punish him ; we punish ourselves ; neither of us are profited at all. There is surely something wrong here. Those who are incapable of taking care of themselves, or who are disorderly in their conduct through drink, when taken into custody by the police, might quite profitably be permitted to go home when they are sober, unless their conduct is becoming a habit ; in which case some other method of dealing with them requires to be considered. The disgrace



of arrest will appeal as effectively to any person with a sense of shame as proceedings before a magistrate would do. When a fine—the cost of the trouble he has caused—has been inflicted on such an offender, time for payment should always be allowed. A man will never earn money in prison to pay the costs of his prosecution, but if allowed to go about his business he may do so. Even if he can only earn his living without paying a fine, behaving himself the while, he has done more than it would have been possible for him to do in prison.

There has been a strong tendency of late years to deal with persons coming before the courts for the first time, even when the charge is regarded as a serious one, in some other way than by sending them to prison. They are put on probation for a period, and if nothing is known against them for that time they are discharged. Probation rightly managed would solve the problem of their treatment in the great majority of cases. Imperfect as the method employed at present is, many have been benefited because under it they have escaped imprisonment. It is most commonly adopted in the case of those who have committed offences against property; yet if the principle on which it can be justified—the principle of substituting correction for punishment—were intelligently recognised, it would be applied in all cases, no matter what the offence; provided the offender was regarded as a suitable subject on consideration of his history and character. At present the offence more than the offender determines the sentence; and there is a greater likelihood of a person who has committed a petty offence being put on probation, than there would be if in the eye of the law the offence he had committed were regarded more seriously.



The process is popularly described as giving the offender another chance. It is a loose expression, which may mean anything. It sometimes does mean giving him another chance to offend, and that is all. It is intended to give him another chance to behave ; and this assumes that he has already had the chance ; an assumption that is not always warranted if the facts were considered. Clearly it is of no advantage to the public that an offender should have a chance of again committing a breach of the law ; and if he is to be liberated from custody, it would be a reasonable proceeding to see that he is placed under such conditions as would make it easier for him to obey than to break the law. Putting him on probation ought not to mean returning him to the conditions under which he failed to resist temptation. Rather should it imply placing him under less unfavourable conditions of life. What is actually done amounts to this, that the offender, instead of being sentenced, on conviction, to imprisonment, is ordered to appear in court after so many months, in order that his case may be disposed of ; and is allowed to be at liberty provided he consents to live under certain conditions prescribed by the court, his conduct to be reported on by a probation officer, whose duty it is to give him such counsel and aid as is possible without expense to the rates.

The probation officer may be a police official ; not necessarily a police officer, but under the control of the police. Now if there is one thing that is more clear than another in Glasgow and other urban areas in the West of Scotland, it is that the poorer classes are suspicious of the police and the machinery of the law that masquerades in the name of justice—for it is a burlesque of justice to examine only one side of a



case ; to decide how far the individual is to blame for offending against the laws of the community, without making any enquiry into the question how far the community is to blame for inducing the offence ; and this is felt, if it is not clearly expressed, by all who are liable to transgress. A tacit conspiracy against the officers of the law is not only apparent in the case of the poorer classes, but in the case of all classes, when they are brought into conflict with it. The old Roman father who sacrificed his son to the laws, and whom we were asked to admire for his heroism when we were at school, is not a common phenomenon. He has left few descendants, which is probably a good thing. Now the father strives to shield his son ; the sister puts the best face on her brother's conduct ; and the neighbours would far rather condone the fault of the culprit than expose his misdeeds. They feel that our methods are wrong whenever they come intimately in contact with them, and they obey their instincts and feelings ; that is all. They can see that it is wrong, that it is foolish, to interfere with a man to make him worse, no matter under what pretence, when they know the man ; although they will readily admit that you must punish the offender whom they do not know. So the probation officer may be misled into a wrong report regarding the person under his charge when that person behaves pretty much the same as he did before he was first arrested, the conditions under which he is living not having undergone any material change. The probation officer has his hands full, having quite a number of people to visit and report upon daily. These people being widely separated from one another geographically, he is merely discharging the duties of an inspector ; and he cannot give individuals the attention



their cases may require in order to their improvement.

Before a prisoner is discharged from the criminal lunatic department, the authorities see that an approved guardian is provided for him outside. The conditions on which he is allowed to be free are distinctly laid down, and the guardian is given the same authority over him outside as the attendants had when he was inside. If he breaks through any of the conditions imposed on him the guardian may report his misconduct, when he is liable to be brought back within the walls of the department. The same thing may happen if complaints of his behaviour are made by neighbours or associates. He has to be visited at intervals by some citizen of known character and integrity, whose duty it is to certify that the patient is fit to be free ; and at unexpected times a medical officer from the department may call and see him, his guardian, and others, in order that there may be a reasonable security for the public.

It has been said that there is too much fuss made over these cases, but I doubt it. The public security is the first consideration, and there has seldom been any cause given for complaint on the part of the prisoner so liberated. He is not set free and left to return to the associations to which he has reacted badly in the past. He is not left to struggle for existence and probably to fall under the struggle. He is placed under conditions which make it easier for him to do well than to do ill ; and if he will not conform, his rebellion is checked at the beginning.

It is not the duty of his guardians and visitors merely to look for evidences of his evil tendency. They have to help him to do well. These guardians are usually people who, for some reason, have a friendly



interest in the man whose care they undertake. They are not paid for their work—though they should be, if necessary, as it costs less to keep a man outside than to keep him inside a lunatic asylum, and it is better to pay people who have a personal interest in the subject of their care than to pay those who have only an official interest in the persons with whom they deal.

Contrast this state of affairs with probation as it is worked. In the one case the guardian is carefully selected and is not appointed to act, however willing he may be, if there is not ground for assuming that he is also able. In the other case it is assumed that the guardians who have failed to exercise supervision over the offender will be better able to do so when the culprit has appeared before a magistrate. In both cases there are official visits to the prisoner discharged on licence, and in the case of the offender on probation these visits are more frequent.

In so far as the officer can do so, he tries to help the wrongdoer; but if he has many under his charge the best will in the world cannot enable him to do more than a little for each. This little is as much as is required in many cases; and, imperfect as it is, the practice of the probation system has been justified by a certain amount of success. Where it has failed has been in those cases where the conditions laid down have been of such a character that the offender is morally unable to conform to them. I do not suggest that the conditions were in themselves unreasonable, or that the standard of behaviour demanded has been too high judged by the needs of the community, but only that the demand made on the offender was greater than his circumstances permitted him to meet.

X 32 was a girl under fifteen years of age, rather



big for her years, judged by the standard of the district in which she was brought up. She was employed as a message-girl and stole money from her employers. In the aggregate she appropriated a considerable sum before she was found out. She was put on probation, broke her bond, and was sent to a reformatory. Two questions arose from her conduct. (1) Why did she steal? and (2) Why did she break her bond? As to the first question, the answer was quite apparent. She wanted little things which she could not get and she took the money to get them. Her peculations were not observed and they increased. Indeed, on one occasion she spent such a large sum of money in treating a party of school friends, that it is difficult to understand why the tradesman who executed her order did so at all, seeing what she was. It is one of the commonest things for young people to help themselves to things that are not their own. It is rarely considered thieving except they take money, or goods to sell; but dishonest appropriation of property is so common, not as a continued practice, but as an incident in the lives of young people, that I question if one of those who read this has not at some time or another in his or her life been guilty of it. This is too frequently forgotten, and if it were remembered as it ought to be children would be treated more wisely than hitherto has been done.

The girl in question was the eldest daughter of respectable working people. Her conduct shocked them; but they were unfit to direct her, for during the day her father was out working, and her mother had as much as she could do to attend to her household and to care for her younger children. The girl was sent back on probation to this home; a respectable home, but a home where, in the nature of things,



she could not receive the care and guidance she required, having developed this propensity ; and she broke her bond simply because she was placed under conditions where there was no reasonable probability of her keeping it. Accordingly she was sent to a reformatory, at a cost to the community much greater than would have been incurred had she been boarded out with the consent of her parents under the care of some respectable person in the country, where she could have been freed from the associations that had proved unsuitable to her.

Money may be had, through channels provided by Parliament, for placing people in institutions, reformatory and otherwise ; while the statutes do not provide for expenditure in the way suggested. Accordingly the reason assigned for not doing things which obviously might be done with profit is, that there are no powers, enabling them to act in the way suggested, in the hands of the officials. This, if it is an excuse for inaction, is not a valid one everywhere. When the parents of a child are willing to surrender their rights as guardians on cause being shown, and to allow the young person who has offended to be placed under control of some suitable person, all the power required is in the hands of the judge.

It is recognised that parents, however respectable, may not be able to give their children such attention as they may require should they contract certain diseases ; and there is seldom any difficulty in inducing them to have their ailing child removed to an infirmary for treatment. On the contrary, there are more who seek such treatment for their children than can be accommodated. For want of a better term, what we may call a moral ailment in a young person may as readily defy the resources of the parents as any



physical ailment could do ; and there are many parents who recognise the fact and would welcome assistance ; but instead of helping them we are content to wait until the offender gets worse, and then to free the parent from all sense of responsibility and to make his position more painful than it need be by placing the culprit in one of our institutions. We may hope our action will do good, but the hope is not founded on experience.

There is no law that hinders the community from assisting the needy among its numbers, although there may be no provision of funds specifically for this purpose. Whatever may be the case elsewhere, in Glasgow want of money is not the reason why things are not done. We have a large fund called the Common Good of the Corporation. Of late years it has been swollen by profits on the city's tramways to such an extent that a bonus, under the name of a reduction of rates, amounting to some £40,000 in one year, has been divided among the ratepayers. From this same fund banquets are provided ; receptions are paid for ; medals are supplied to magistrates ; and all sorts of expenditure are defrayed for which there is no authority to rate. A small sum relatively is granted in aid of scientific and charitable organisations, and about £500 is contributed to assist discharged prisoners. If money can be had to defray the cost of food, drinks, and cigars, for those who are quite able to pay for them themselves, and that without any special Act of Parliament, surely it could also be had to prevent offenders becoming hardened in their offences, and to assist those who are willing to undertake the work of guiding and training them in right ways of living. Doubtless the money will be found when it is realised that it is at least as important to the city that people should be kept out of prison and helped to do well, as it is that



the eminent and notable among the citizens should occasionally be treated from the corporation funds.

How many could be assisted in this manner it is impossible to say, but so far as can be judged a large proportion of those dealt with might be so assisted at comparatively little cost. Whether the number be large or small, however, it should be clearly understood that, the money being there, if they are not helped, it is not for want of power nor for want of means, but for some other reason. There are many things which the law does not enjoin on the corporation; but there are many others that are worthy which it does not prohibit those who are willing from doing; and if our officials are to be encouraged to believe that they must do nothing to help those who need assistance unless they get an Act of Parliament authorising them to do it, we need not wonder if our rate of progress is slow. The safe rule is to do the thing that needs doing, so long as there is not a positive injunction against doing it. This will cause trouble, no doubt, to the person who follows such a course of action; but I do not believe that any public official who acts on this principle will fail to receive public support and encouragement so long as he seeks to help people to help themselves, whatever view those in authority may take of his actions.

We are too much bound by precedent. Appropriate action is sometimes checked by the consideration that the thing proposed has never been done before. Of course that is no reason for not doing it now; but it takes the place of a reason in far too many cases.

More interest is taken in proposals for dealing with the habitual offender than in any others, although nobody is a habitual to begin with. He is supposed



to be the dangerous person. He is a professional plunderer; the villain of the piece. But habitual offenders are not all great criminals. There are those who live by stealing, having become more or less expert at the business; but there are many offenders who, having become careless and drunken, or who, being physically or mentally a little below the ordinary standard of their class, are incapable of keeping a job even if they got it. They are more a nuisance than a danger to their fellow-citizens. This army of destitute persons should be dealt with by the destitution authorities. Taken singly they are not difficult to control and direct, and it would be cheaper and more profitable to have them planted out in the country than to allow them to herd together in the cities, to be successful neither in honest nor dishonest work, and serving as tools and touts for the more skilful rogues.

The most helpless among them are the aged and infirm, some of whom have only become submerged late in life, and all of whom are quite unable to extricate themselves from the morass into which they have fallen. Now they are in the prison; now in the poorhouse. When they can avoid either of these institutions they live in lodging-houses or on the streets, where their misery is a reproach to our civilisation. They are not interesting; they are only disgusting; and it has been proposed to shut them up in the poorhouse, because they go in and out too frequently.

Yet something might be learned from their point of view. They are sent to prison because they commit petty offences. They are quite unfit to conform to the rules of that institution and are not improved by residence there. For a few days they are kept off the streets, but nobody pretends that this could not



be done more effectively and at less cost. If they prefer the prison to the poorhouse, as is sometimes alleged, they do not prefer the prison to the miserable and haphazard existence they drag out when free; and as a matter of fact, when the weather becomes suddenly severe or their ailments become more insistent, it is the parish, not the police, to which they apply. They hope to be sent to a hospital. When they recover sufficiently they are out again. May this not afford a presumption that there is something wrong with the poorhouse? Is it reasonable to assume that, having experienced all the bitterness and hardship due to their poverty and destitution—that knowing they will be subjected to hunger, rough usage, and exposure—they prefer to suffer these rather than trust to the tender mercy officially meted out to them, and that they do this through sheer cussedness? For my part, I do not believe that they are such fools. If they prefer to forage for themselves, knowing the difficulty of doing so, rather than live in the poorhouse, it is because, after balancing the advantage and disadvantage, they have found that anything is better for them than life in that glorious institution. To anyone who has lived there, there is no ground for surprise that they should adopt this conclusion.

In the prison a man may have too much privacy. In the poorhouse there is none at all. The inmates having nothing in common but their misfortune, poverty, and destitution, are housed together and live a barrack life. Some attempt is made to classify them, as though you could sort out people, in ignorance of their temperaments and tastes, by their record as disclosed to an inspector. In our own experience people sort out themselves. In any church or club you get people of the same age and of similar good



character. They can all be civil to one another if they meet occasionally, but set any half-dozen of them to live together with no relief from each other's company, and there will be rebellion inside a week.

In the poorhouse the inmates have to suffer one another during the whole time of their stay. Some of them rebel and leave the place, even though they know that they will be more uncomfortable outside. They at least have a change of discomfort. Surely the money spent in chasing them and in keeping them would yield a better return if they were boarded out in comfortable surroundings, where during the few remaining years of their pilgrimage they might get fresh air and some space to move about in. Their very feebleness makes their custody less difficult, and it is no profit to them or to us to make it more arduous than it need be. If it be objected that this would be treating them better than the "deserving poor," that is only to remind us of the shameful way in which we have neglected those to whom we give that name. The "deserving poor" are the uncomplaining poor; and so long as they do not complain their deserts are likely to be disregarded, even when quoted as a reproach to those whose behaviour has attracted our censure.



## CHAPTER X

### THE BETTER WAY

The offender who has become reckless—If not killed they must be kept—The failure of the institution—Boarding out—At present they are boarded out on liberation, but without supervision—Guardians may be found when they are sought for—The result of boarding out children—The insane boarded out—Unconditional liberation has failed—Conditional liberation with suitable provision has not been tried—No system of dealing with men, but only a method—No necessity for the formation of the habitual offender—The one principle in penology.

**I**F our courts of first instance were places where more exhaustive enquiries took place and greater consideration were given to the needs of the cases coming before them ; if the aged and destitute were cared for and prevented from offending ; if minor offenders were either liberated on their own promise of good behaviour or that of their friends ; if people were put on probation under conditions that gave them a favourable chance of conforming to the laws ; there would still be a number to whom such treatment could not be applied.

There are some people who are not fit to be at liberty. They are so reckless of their own interests and the interests of others that, when uncontrolled, they become a danger. Some of them are insane, and the lunacy authority should attend to them. Others, through indulging their temper, are in the way of becoming insane ; but their mental unsoundness



is not so marked as to cause the lunacy specialists to certify them. That is no reason why it should not be recognised. At present they annoy those around them with more or less impunity until they attain to the ideal standard of insanity, in the process of their graduation paying visits to the prison. There is no reason why they should not be dealt with from the beginning. There is only precedent taking the place of reason.

They are unfit to be at liberty without supervision, because they are not capable of self-control ; but many of them could be trained in the habit. At present they are allowed to run wild for a time and then severely put down. Their life alternates between periods of riot and periods of repression, and their natural unsteadiness is intensified. If they knew that the period of riot had definitely ceased—that they were not again to be allowed to do what they liked if it implied harm to others—they would set about to control the temper that is in danger of finally controlling them.

They boast of being able to stand our punishments, and even invite them ; they might as easily be trained to qualify for our rewards had we any to offer. They may be brutal and sometimes are, though brutality is no longer a common characteristic of prisoners in prison ; but it does not follow that, bad as some of them may appear, they are incorrigible. Their conduct and reputation make it difficult to obtain guardianship for them. What can be done with them ? If they are liberated at any time they are a menace to the safety and the comfort of the citizens. It is because some writers have recognised this that they suggest the lethal chamber as a suitable place for them. It is a bold thing to propose the wholesale killing of other



people except in name of war, and if there were any danger of the proposal being adopted it is not at all likely that it would be made. It is designed to shock us, and it fails to do so because we think we know that it will not bear discussion. As a matter of fact, at present we destroy the lives of these people in another way. Instead of curing them of their evil propensities we twist them still further, and kill any sense of public spirit in them as effectively in the process as we could do if we suffocated them. If they were put in the lethal chamber that would be an end to them. As it is, we have to set apart respectable citizens, not to make them better, but simply to watch them marking time before engaging in another period of disturbance.

If they are not killed they must be kept. We have got past the killing stage. It is time we adopted a more rational way of keeping them. Either they have to get out some day, or they have to be imprisoned till their death. In the latter case we need not trouble about them beyond seeing that they are not harshly treated, and that those over them do not develop in some degree the qualities condemned in the prisoner; but if they have to come out again it behooves us to see that they are not set free in a condition that makes them less able to conform to our laws than they were when we took them in hand. Otherwise all we have gained by their incarceration is the privilege of keeping them at our expense.

As all institutions have this in common, that the longer a man lives in them the less he is fitted to live outside, it follows that the shorter time a prisoner is cut off from the ordinary life in the community the less chance there is of his developing habits which will be useless to him on his return. The system of



shutting people up for longer or shorter periods, and then turning them loose without supervision of a helpful kind and without provision for their living a decent life outside, is quite indefensible and has utterly failed in practice.

A prison ought merely to be a place of detention, in which offenders are placed till some proper provision is made for their supervision and means of livelihood in the community. If this were recognised existing institutions would be transformed. Those who refuse by their actions to obey the law of the community, and to live therein without danger to their neighbours, would as at present be put in prison; but they would not be let out except on promise to remain on probation under the supervision of some person or persons until they had satisfied, not an institution official, but the public opinion of the district in which they were placed, that the restrictions put on their liberty could safely be withdrawn. The prison in which they would be placed would not be a reformatory institution where all sorts of futile experiments might be made, but simply a place of detention in which they would be required each to attend on himself until he made up his mind to accept the greater degree of liberty implied in life outside. The door of his cell would be opened to let him out when he reached this conclusion; but it would not be opened to let him out, as at present, to play a game of hare and hounds with the police. Alike in the case of the young offender and the old, the only safety for the citizens and the only chance of reformation for the culprit lie in his being boarded out under proper care and guardianship in the community. The proper guardian for one person would not be proper for another. At present the same set of guardians—the



prison officials—look after all kinds of people who have offended.

The first objection which proposals such as these meet is that it cannot be done. There are a great many people who use this expression when their meaning really is that they cannot do it. There is a difference. Not only can offenders be boarded out, but they are and always have been boarded out. Whenever a man leaves prison he has to board himself out. I do not propose to let loose on the community any more offenders than are let loose at present. Indeed, I do not propose to let any of them loose at all, but simply to do for them, in their own interest and that of their neighbours, what they are doing for themselves to the great loss of us all. When any one of them does reform at present it is only by one way; either he has the necessary supervision from the friends religion has brought him, or an employer has taken an interest in him, or a fellow-workman has given him help, or some friendly hand has guided him. In no case do we give the guardian any control over him; in no case do we pay the guardian for time and work spent. I propose that we should give the power and the pay which are at present given to official persons in prison to unofficial persons outside prisons; in the reasonable hope that the money would be better expended, and in the full assurance that the results would not be worse.

Where are the guardians to be found? They are to be found in all parts of the country when search is made for them. The thing cannot be done wholesale. I do not suggest that the prisons should be emptied in a day. I merely indicate a mark to be aimed at and plead for an effective interference in place of the present ineffective interference. Putting it another



way, are there no cases in which this procedure could be adopted? There are many; there are no cases in which it could not be adopted if you had the guardians looked out, but that takes time. It would be foolish, even if it were possible, to wait until you could treat every offender before treating any. It would be wise to begin and treat as many as possible in this way at once. It is not a question of finding so many thousand men to look after so many thousand; it is merely the question of finding one man to guide and supervise another man, the people in the district being the critics and the judges of his success.

At one time, in this part of Scotland, the children of paupers and of criminals, and the orphans of the poor, were brought up in numbers in the poorhouse. They acquired characters in common that marked them off from children outside. When they grew out of childhood, and were turned out in the world to work and to live, many of them gravitated back to the institution or to the prison. It occurred to someone that what these children required was proper parents; and one was boarded out with a family here, and another with a family there, at less cost to the parish than had been incurred in keeping them in the poorhouse. Thousands of children during the last generation have been boarded out in this fashion to their great advantage in every respect; and their after-conduct has been as good—they have been as decent and law-abiding citizens—as the children of any other class in the community. This moral and social gain has been accomplished at less financial cost than that incurred by bringing them up in institutions. It was said that the institution child had been handicapped because of the stigma of pauperism, but the boarded-out child is equally a pauper in respect that he is supported by the rates.



The fact is that the stigma from which the poorhouse child suffered was not the stigma of pauperism, but the stigma of institutionalism.

When the public conscience was stirred regarding the treatment of the insane, great buildings were erected and lavish provision was made for the lunatic. To these places thousands were sent for treatment. By and by it became manifest that in many cases their latter condition was worse than their first. They were better housed, better fed, better clothed, and better cared for; they were protected from the cruelty of the wicked and the neglect of the thoughtless; but they acquired evil habits from each other, and they infected some of their attendants with their vices. Here and there suitable guardians were found for one and another of those whose insanity was not of such a kind as to make it necessary in the public interest that they should be confined to an institution; and now, in Scotland, between five and six thousand are boarded out. That in some cases mistakes are made no one denies; but the cases are few, and on the balance there has been an enormous advantage to everyone concerned.

It has become apparent that not only the inmates of institutions acquire peculiarities which mark them off from persons living outside, but the officials who live in these places also tend to develop eccentricities, and there are proposals made with the object of preventing them from living in; the idea being that the more they are brought in contact with life outside the less they are likely to become narrowed in their views and their habits, and the better they will be able to do their work in such a way as would commend itself to the public whom they serve.

If people can be had who are willing for a consideration



to take charge of lunatics, and to fulfil their charge to the satisfaction of the public, it is not unreasonable to suppose that on suitable terms guardians could be found for persons who have offended against the laws, and who cannot be expected to refrain from offending if returned to the surroundings which have contributed to their wrongdoing. The criminal may be presumed to have a greater sense of responsibility than the insane person, and to be more able to take a rational view of his position. In any case, it should never be forgotten that so far as the public is concerned there are only two ways of it ; unless, indeed, we are prepared to kill the criminals or to immure them for life. They must either be liberated, as at present, without provision being made for their welldoing, and without guarantees being taken for their good behaviour, even if opportunities were provided ; or they must be liberated on condition that they remain under some form of supervision and guardianship.

Unconditional liberation has ended in disaster to all concerned. Conditional liberation can only be expected to produce good results if the conditions are reasonable. They must confer in every case the maximum amount of liberty consistent with the security of the public ; and the final judges must be the public themselves. The offender should work out his own salvation, and show that he deserves to have all restrictions removed before they are removed. If he is merely required to do so under highly artificial conditions within the walls of an institution, he will soon learn how to get round the officials there. His conduct in the institution can afford no means for judging what his behaviour will be outside under entirely different conditions. Inside he has no choice but to obey. Outside he has to think and act for him-



self, and has opportunities of acquiring new interests and of learning habits which are likely to persist because they are those of his fellow-citizens who are free.

All sorts of systems have had their trial in dealing with the offender. It has always been recognised that it was necessary to remove him from the place where he had offended. He has been transported to other lands, there to begin a new life ; but the conditions under which the operation was carried out were appalling. He has been placed in association with other offenders, and left, with very little supervision, to become worse or make others worse. He has been placed in solitary confinement ; cut off from company of any sort ; with the result of wrecking his mind as well as his body. At present he is separated from his fellows, but he has no opportunity to come in contact with healthy social life. One system has broken down after another. All systems have failed to deal with him satisfactorily.

There can be no system, but only a method ; and that, the method adopted by the physician in dealing with his patient. When he has satisfied himself that the man who comes to him for advice is suffering from a certain disease, he enquires into the past history, the habits and pursuits, and the social condition of the patient ; and on the information gained considers his treatment. The course of conduct prescribed for one person may be quite unsuitable for another, although both suffer from the same complaint ; and the wise physician knows that he cannot leave out of account the opinion of the patient himself as to what should be done. It is just so with the offender. In many cases he is best able to tell what should be done for him ; and provided it is not something that would result



in harm to the community there is no reason why his opinion should not be considered, but every reason why it should. The expert may know a good deal about the offender, but it has been proved over and over again that he does not know how to reform him; for he has been given ample opportunity, and his prescriptions have ended in failure. The official person is apt to imagine that he and his methods should be above criticism. His office has been magnified for so long that he honestly believes it is necessary that it should be maintained in the interests of the public. No institution can be created which will not result in the formation of vested interests in its continuance; and yet every institution must be judged by its results, and not by the opinions of those who are set to manage it.

With the improvement in the social condition of the people; with an increase in the minimum standard of living; with the abolition, or even the mitigation, of destitution, the whole complexion of things would be altered. That changes in these directions will occur there is every reason to suppose, but meanwhile many fall by the way and many take the opportunity to grasp an advantage to the loss of their neighbours. Under any social condition offences may occur. Whatever laws we make there may always be law-breakers. A man may become possessed by jealousy or wrath and injure his neighbour, or from envy or greed may rob him, but he can only acquire the habit of doing so with our permission. If he is checked at the beginning and placed under control, he will not acquire that habit.

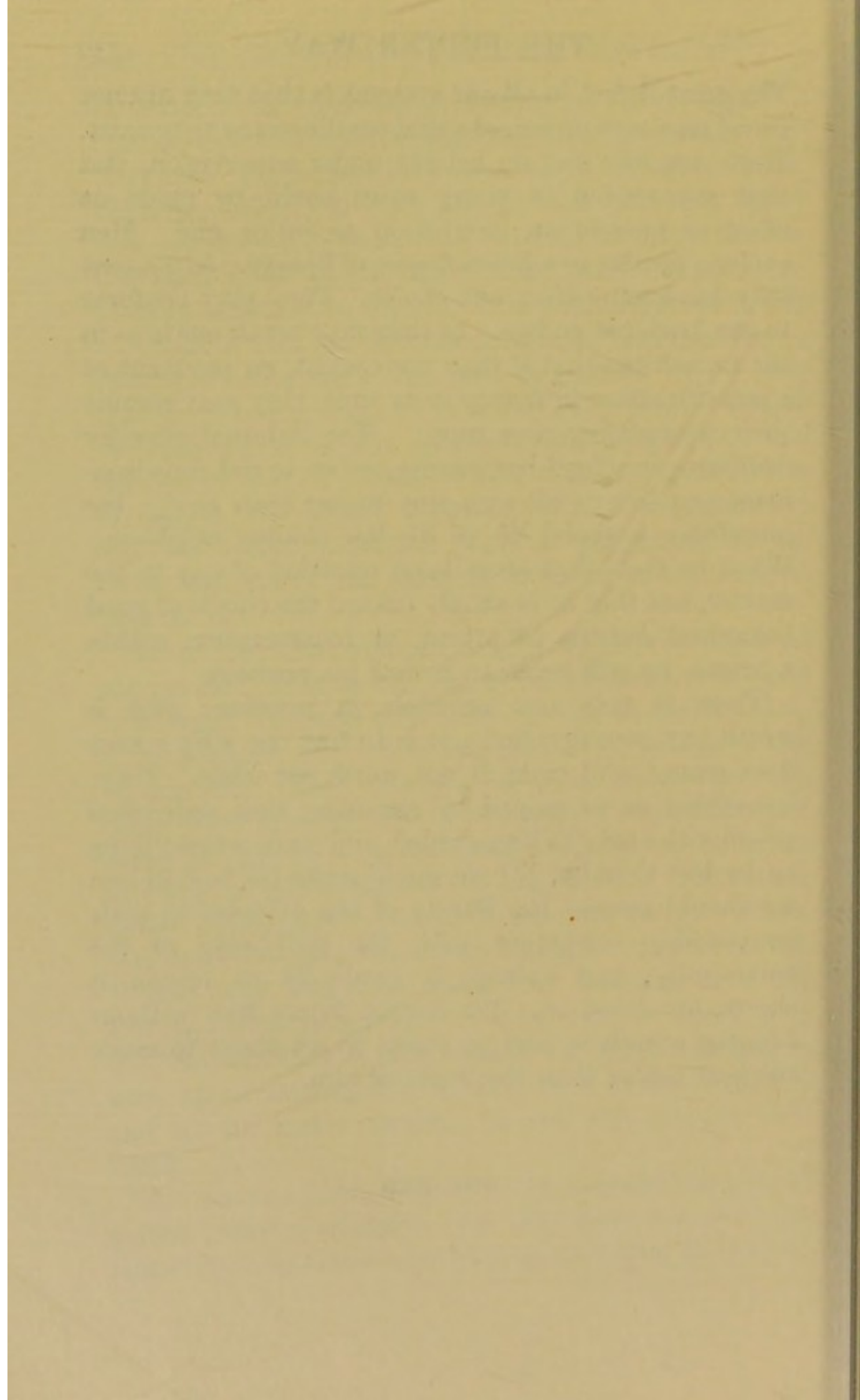
Our present methods have not prevented the growth of the habitual offender, and they have not been designed to help those who have gone wrong to reform.



The great defect in all our systems is that they are not based on a recognition of social conditions as they exist. Most men can and do behave under supervision, and that supervision in many cases could be made as effective outside an institution as inside one. Men prefer a greater to a lesser degree of liberty. At present they have more than one choice. They may conform to our laws and go free ; or they may break our laws in the knowledge that if they are caught, on payment of a penalty either in money or in time, they may resume their wrongdoing once more. The habitual offender continues to offend because he prefers to risk imprisonment and live in his own way rather than accept the humdrum, peaceful life of his law-abiding neighbour. When he finds that there is no question of pay in the matter, but that he is simply offered the choice of good behaviour outside of prison, or incarceration within a prison, he will begin to review his position.

There is only one principle in penology that is worth any consideration ; it is to find out why a man does wrong, and make it not worth his while. There is nothing to be gained by assuming that individual peculiarities may be disregarded, and there is everything to be lost thereby. If we would make the best of him we should restrict the liberty of the offender as little as possible consistent with the well-being of the community, and enlarge it gradually as reason is shown for doing so. We cannot injure him without injuring ourselves, and we ought to set about to make the best rather than the worst of him.







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