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FAIR PLAY FOR THE INEBRIATE.

MCKENZIE CLELAND.¹

My attempt to bring about a change in Chicago's method of dealing with intoxicated persons found upon the streets, "who are not acting in a disorderly manner or committing a breach of the peace," came from a conviction that the present practice of arresting and committing such persons to the workhouse is not only injurious to them and to their families in the great majority of cases, but is entirely unnecessary and is an extravagant method of procedure which ought never to be resorted to unless the individual is imperatively in need of the medical treatment which our shortsighted policy has provided only at our house of correction. This present practice moreover is scandalously illegal inasmuch as our ordinances nowhere make drunkenness, either in public or private, an offense and yet so many arrests are made for this cause every year that our criminal statistics are thoroughly vitiated.

Chicago suffers from the reputation of making about seventy thousand arrests annually, but if the illegal practice of arresting for drunkenness was stopped these figures would be greatly reduced, or at least the police would have time to arrest more real criminals. One branch court tried upward of 5,000 persons for this alleged offense, which was not in any sense made lawful by the discharge of 4,900. If, as has been computed, our citizens are required to obey approximately 16,000 laws which have been enacted by our numerous law-making bodies, they should not be compelled to obey any which have never been enacted except by the imagination of courts, prosecuting attorneys and police officers.

It is true we have a state law making intoxication in a public place a misdemeanor, but these wholesale prosecutions are rarely under this statute. It is probable moreover that this statute is invalid and would not be upheld if directly attacked. As Mr. F. H. Wines has lately expressed it in a letter to the writer, "If intoxication in private is not a criminal offense, then intoxication is not a crime *per se* and public intoxication does not constitute a crime unless accompanied by acts which are a menace to public order or safety." It seems apparent that the legislature has no power to make an offense

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out of what is merely a physical disability. Intoxication is nothing more or less than temporary illness which a person brings upon himself in exactly the same way as he brings many other ills of the flesh—by overindulgence. Gout is usually produced by overeating and in severe cases renders the victim helpless, and ice-water consumed immoderately has been known to render a person unconscious, but laws which would make criminals out of such unfortunates could hardly be sustained. The power has not been conferred upon the legislature to say what we may or may not eat or drink. Therefore a person has the right to eat plum-pudding or drink ice-water or whisky as he may prefer and the mere physical results to himself of so doing can no more make him a criminal than can the smoking of a cigar or the eating of a cascaret.

It is apparent that this absurd and unlawful practice of dealing with intoxicated persons is merely a logical development of our national craze for arresting people, which is rapidly becoming the disgrace of our times. Unless this craze is itself arrested it will soon have put in the shade the Tulip Craze and the Mississippi Bubble, and every other hallucination which has ever bewitched the human race. Under the spell of this amazing delusion the warrant has been made the panacea for well-nigh every human ill. Ignorance, poverty, mental deficiency, hereditary taint, lack of parental training, hunger, defective vision, adenoids, two-room flats and the hundred other causes which make people criminal, vicious, sullen or stupid, may all be cured by thirty days or thirty years in jail. To be sure no one has ever been able to point out just why the coarse, brutal, unnatural process of locking a man up, humiliating him, breaking his spirit, destroying his self-respect, ruining his good reputation, and herding him with vile criminals should supply or cure his deficiencies, but many people, including a large majority of judges and legislators, apparently believe that it has this effect. Therefore, we place the warrant within reach of all and police officers are empowered to hold curbstone court in which they are judge, jury and executioner and to sentence citizens to jail or the necessity of furnishing bail.

If you wish to deprive your neighbor of a few paltry dollars, you must hire a lawyer and advance the costs of court, but if you wish to deprive him of his liberty, his good reputation and many other things more precious than gold, you can do so without a penny's cost and the state will furnish a skilled lawyer to assist you. It is not strange that we revel in a saturnalia of arrests when the vast power, wealth and machinery of the state are placed at the disposal of pri-

vate, irresponsible individuals who may merely desire revenge or satisfaction, or as is frequently the case, the collection of money, and when this has been accomplished have no further interest in the case. The wheels of our criminal courts are seldom set in motion except upon the demand of a private individual who has a grievance, real or fancied, against the person to be prosecuted; the defendant, then, frequently seeks to injure or intimidate the prosecuting witness by procuring his arrest; personal and political influence is sought, local or sectional animosity is appealed to, and, in an atmosphere surcharged with the meanest and most contemptible qualities of human nature, the influence of which the court, alas, is not always able to withstand, justice is sought to be administered.

It is here that our unlearned foreigners learn their most impressive lessons of citizenship. They have little knowledge of our great benevolent institutions and seldom attend a patriotic lecture, but the criminal court is ever in their midst, and whereas we have the opportunity to teach through this most powerful agency impressive lessons of sympathy and forbearance and self-control and love for our laws and institutions, we have usually succeeded in cultivating only fear and hatred and the desire to get even with some individual, society or the law. It is no longer generally believed that the fear of punishment prevents crime. We have been punishing criminals in this country for 400 years and the savages did it before us, yet crime is constantly increasing. The man who deliberately shot the mayor of New York did so with the full knowledge that he would speedily go to the electric chair. Chicago has sentenced to death as many as seven men in one day as a warning against murder, and yet there were fifty-three homicides in the city during the first four months of this year. I am not among those who profess to believe that if all laws were repealed it would be necessary to protect our homes with shotguns and sabers, although that would not be doing much more than most people find it advisable to do now. If the criminal code should be repealed, the ten commandments would still be in force, and many people forget that 3,000 years ago the greatest nation on earth had for its laws only the ten commandments, and although its people became so wealthy that silver in its capital city was as common as stones, there wasn't a jail or a police court in the whole nation. During these 3,000 years there has been a tremendous growth in kindness and sympathy. Hospitals, infirmaries and asylums have been invented and wars for conquest have disappeared. I firmly believe that half or more of all our criminals are produced through the

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multiplicity of laws and our harsh and stupid method of dealing with first offenders, and that if professional criminals who have been made such by our jails and reformatories were deprived permanently of their liberty, and we were to stop manufacturing new ones, we could safely reduce our constabulary and criminal courts fifty per cent. It is a colossal mistake to assume that any large number of persons are moral degenerates. First offenders violate the law usually as a result of their environment and are then, by our methods, treated to a course of "compulsory education" in jails and workhouses, which fits them for a career of crime. A person placed under arrest suffers an irreparable injury. He is never the same after as he was before. He has lost something which in naught has enriched the state but has made him poor indeed. What this is, is difficult to describe, but it is very real. Even a dog who has been in the pound is worthless ever after. He may be high bred when he goes in but he is a cur when he comes out, and it is equally true of the great majority of the 500,000 or more men who go through this process annually.

The colossal loss which accrues to the nation annually through this reckless and shocking practice is incalculable. Mayor Gaynor recently visited the New York night court and afterward characterized two-thirds of the arrests as having been made "stupidly and unnecessarily." In Chicago more than one-half of all the persons subjected to this destructive and brutalizing process are discharged, showing that such arrests should not have been made, but the harm has been done. It would seem to be about time to call a halt upon this uncivilized slaughter of our citizens. Then, again, there is a great economic argument against arrests for trivial cause, and no cause at all, in the vast amount of time wasted by police officers who have been on duty all night or who should be on duty during the day and who sit in weary rows in police courts until their cases are reached and tried or continued.

Assuming that the 4,000 regular police officers of Chicago (not including the more than 12,000 special officers and park policeman) should spend one hour each week unnecessarily in court, it would be a loss to the city of upward of \$100,000 in salaries alone, and it is apparent that this is a conservative estimate of the time lost. It is no wonder, when our officers are required to loaf in court to testify in cases where more than fifty per cent are found to have committed no offense, that there were twelve homicides in which no arrests were made in the first four months of this year.

I respectfully ask that as a preliminary step toward a thorough

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reorganization of such a system we stop arresting harmless inebriates. The proposed ordinance now pending before the city council of Chicago provides that wherever it can be done such persons be taken to their homes, and if it is necessary to detain them in a police station for their own safety, that they be released without arraignment in time to go to work. This is substantially the practice now in Cleveland, Ohio, which has proven so successful.