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THE CRIMINAL, WHO IS HE, AND WHAT SHALL WE
DO WITH HIM?¹

WILLIAM N. GEMMILL.²

The procedure in our criminal courts has been severely criticised. Some of this criticism has been well merited, for in our eagerness to see that no innocent man is convicted, we have retained in our procedure many ancient rules of practice, whose chief function is to protect the guilty from just punishment. Most of the criticism, however, is misdirected, for it is aimed at the form, rather than at the substance of things.

It is important that our procedure should be simplified, in order that the innocent may be more speedily released from unjust arrest, and that the guilty may be more certainly punished. It is more important, however, that the punishment inflicted upon one who has violated the criminal laws, shall be measured by the gravity of his offense, and shall be fitted to the individual offender, not only with reference to his future welfare, but also with reference to the future welfare of the state. It is probable that in not over five per cent of the cases brought into the criminal courts, does the method of procedure, in any way affect the final outcome of the case. It is also probable that in over seventy-five per cent of the cases in the criminal courts of the first instance, the guilt or innocence of the parties is not open for consideration, but the guilt of the accused is admitted, and the only question before the court is, what to do with the guilty offender. If the state would do exact justice to all its citizens, it would be necessary to have as many laws as there are citizens, and each law framed and fitted to the individual. Just as no two individuals are alike, so in no two cases is the responsibility of the individual to the state and to society the same. All laws are framed to fit the average man, but no one has yet been able to find that man. It follows, therefore, that when justice is meted out to one man, injustice must be the lot of another, when he is measured by the same law. By our laws we define crimes, and prescribe penalties for those who commit them. The definitions of murder, manslaughter, burglary, robbery, larceny, and many other offenses, have not changed in four thousand years, but the penalties for these crimes have changed, almost with each changing genera-

¹Annual address of the president of the Illinois Branch of the American Institute of Criminal Law and Criminology, at Hotel La Salle, on Tuesday, May 26, 1914.

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tion. The change in the penalties is due to our changing viewpoint. What in one age was thought to be proper punishment for an offense, was looked upon as barbarous in a succeeding age. As each generation has prescribed new penalties, based upon its conception of justice to the state, and the individual, so it has also defined new crimes to compel obedience to the higher ideals of the community. The last twenty-five years has witnessed a revolution in the criminal laws of every civilized state. More new laws have been defined and declared in the United States during that time than during all the previous history of the republic. From the days of Moses to the last two or three decades, criminal laws were nearly always negative in their character. "Thou shalt not kill." "Thou shalt not steal." "Thou shalt not bear false witness," were the formulae after which all criminal laws were drawn. The penalties for violating these laws fell automatically upon the offenders. With the broadening conception of the relationship between the individual and the state, and the duties which one owes to the other, we are no longer content with mere negative enactments, but the trend of modern legislation is in favor of positive and compelling legislation, to regulate the conduct of citizens toward each other and toward the state. So, we have our pure food laws requiring that food products which so largely affect the public health shall be healthful, and their compositions made known to the consumer. We are no longer satisfied to collect large damages from railroads as the penalty for careless operation. Nor are we content that this shall be the only remedy for the maimed employee or for the widows and orphans of those whose lives were sacrificed. But we require the exercise of the highest degree of care by these roads to equip their trains with air brakes, and with the best known modern safety appliances.

We are not willing that our factories and workshops shall expose their thousands of employees to dangerous machinery, or require them to work in foul and unsanitary quarters. So, we have our laws for sanitation and factory inspection.

We long ago decided that it was not sufficient to enact child labor laws, forbidding children to work for long hours at difficult and burdensome tasks, but we found it necessary to supplement these laws, by enacting others requiring the compulsory education of these children. These and many more laws have come to us within a comparatively short time, and have served to revolutionize our criminal codes and change our attitude toward the person whom we call "The Criminal."

In discussing the question: "Who is the criminal?" we must not lose sight of the fact that the majority of the persons brought into our criminal courts today are not criminals primarily because of what they

have done, but rather because we changed our ideas of the relation of the individual to society and the state. It will frequently be found that the communities where law and order reign, and where justice and righteousness most prevail, will have the most criminals, not because the people are more depraved, but because they have higher ideals, and insist upon higher standards of living.

The passage of the Pure Food Law made fifty thousand criminals of persons who before that time, were regarded in the community as good citizens. It was not because these people were any worse that they became criminals, but because the Government of the United States had gained a new conception of its duty toward all its citizens, and that conception compelled it to protect those who were the least able to protect themselves.

When the law was passed a few years ago forbidding the employment of women for more than ten hours in any one day, many thousands of employers were instantly made criminals. Before that time they were as respectable as any in the community. They did not change, but the public conscience changed, when it was made to realize that the burden and stress of long hours of weary employment by women could not long continue, if the race was to be kept strong and virile.

During the last year the writer tried hundreds of cases against men and women who were arrested charged with violating the laws against child labor. Most of these offenders had yielded to the urgent entreaties of mothers to employ their boys and thus give them an opportunity to earn a little with which to buy clothes, and books and other things much desired to support needy homes. Under the law these employers were criminals. Thirty years ago they would have been hailed as benefactors. No one, however, will say that the child labor laws have not been a distinct step in advance.

Before the White Slave Law was enacted many men and women went up and down through our cities, towns and villages soliciting girls and young women, to become inmates of brothel and disorderly houses, but instantly upon the passage of this law, these men and women became the most despised of all criminals. They had not changed, but were doing only that which they and their kind had done for ages past. But the whole American people had awakened to higher ideals, and had crystallized these ideals into law.

In 1912, 15,888 persons were tried in the Chicago Municipal Court charged with misdemeanors, but 8,603 of this number were charged with violating laws that did not exist fifteen years ago. Of the total

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106,369 persons arrested in Chicago in 1912, over one-half were arrested for violating laws that had no existence twenty years ago.

There are those who profess to believe that the criminal is in a class by himself; that somehow he is different from the rest of society. But through our criminal courts is moving a long line of perfectly natural, healthy, able-bodied people, who have fallen under the ban of the criminal law and, having pleaded guilty of violating the laws, are ready to receive their sentences. What ought these sentences to be? is the most serious question with which the trial judge is confronted.

It might not be uninteresting to inquire who were these 106,369 people; 47,824 of them were arrested on the charge of disorderly conduct. This omnibus charge includes almost everything from spitting on the sidewalk, to attempted murder. At least 20,000 of this number were brought into the police stations in a helpless state of intoxication. They were not criminals, but only criminals in the making. Thousands of them were young men of good families and education. Most of them had steady employment. But periodically on pay-day they saunter forth from their homes or places of business to celebrate their emancipation from restraint and their love for personal liberty. In the morning after they have spent a night in a cell or upon the floor of the station, and have slept off the stupor, they never speak of personal liberty, but amid shame and humiliation ask the court for another chance to be decent. Their request is freely granted, and instead of inflicting the penalty prescribed by the law, the court generally substitutes a few earnest words, admonishing the victims of habit to forever shun the cursed thing which brought them to such a pitiable state. Those who think the drunkards in our courts are tramps, vagrants, and outcasts are mistaken. Most of them are as honest, as industrious and as intelligent as any in the community, but they are all at that stage where in the next step they will either recruit the army of respectable, law-abiding, God-fearing citizens, or the army of the unemployed, the tramp, the vagrant, the outcast and the criminal.

Thousands more of those who are arrested during the year are women charged with being inmates of disorderly houses. The busy world rushes on unmindful of these, content in the belief that they are outside the veil of respectability. But who are they? Do they come from some far-away place, or are they from our midst? Are they all so ignorant, feeble-minded or defective? No, most of them are as intelligent and as sane as the average in the community. But why are they here? The answer is in ten thousand tragedies. In no two of which are the acts the same, but through nearly all of which there runs the story of love, betrayal, disgrace, despair, and then the final

plunge where all may be forgotten. If the community could understand how many of these women are the mothers of babes, whose daily sustenance is supplied by their earnings in these brothels, it would understand how hard it is to inflict the penalties of the laws when such as these are arraigned. Not only has our conduct toward these offenders been foolish, but it has been little less than criminal. The only penalty that can be inflicted under our law is a fine, and no judge ever inflicts a fine upon one of them without feeling that by so doing, he is only driving that bit of human flesh a little harder, and hastening for her the end of all, which at best must come all too soon. In dealing with this problem the whole system of fines should be abolished, and the court be given power to commit these women to some institution where they may receive proper care, and made to feel somehow or other that the star of hope which seemed to have forever set for them will again rise, bringing light and courage with it. This institution must not be one built alone of brick and stone, where in the darkness and the dampness all sorts of diseases may grow, and where the white plague may have a better opportunity to seize and destroy its victims, but it must be somewhere in the open fields under the broad sunlight, with fresh air everywhere, and where flowers and grass and trees and shrubs will grow, and where health and hope may have some opportunity to thrive. No other class of offenders who come before the court are as difficult of reformation as these. It is all the more important, therefore, that they be surrounded by every condition which will tend to make reformation easy.

Among the many arrests each year are thousands who belong to the army of defeat. They are not men and women, but the remnants of them only, from which have departed hope, pride, ambition, courage, self-sacrifice and all those qualities which distinguish the human from the animal world. This army of derelicts is an appalling menace to every large city. They all march under the one banner upon which is written in large letters the word "Failure." They are constantly on the move from Maine to California, and from California back to Maine. In the summer they sleep in parks, under sidewalks and along the wharfs. In the winter they hibernate in cheap lodging houses, where they are stored in tiers one above the other, upon beds of filth, vermin and disease, and from which they go to carry contagion and death to the whole community. The few clothes they wear are foul and ragged. Their weak and emaciated bodies are burned out with drugs and liquor. They are friendless and homeless and hopeless. We send them to the Bridewell because we have no other place to send them. Some of them have been there ten, twenty and fifty times. No place

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could be more unfit for them than these walled enclosures. They are not criminals, they are but driftwood cast upon a turbulent sea, and they have no power to beat back the waves which rock and drive them. Few of them can ever be regenerated or restored, for no foundation is left upon which to build.

In a recent report by a Royal Commission appointed in England to investigate vagrancy and unemployment it is declared that in over fifty per cent of the cases where an epidemic of smallpox or other serious contagious diseases were found, the cause was traceable directly to this class of offenders.

Many communities have already met this problem by purchasing large farms, upon which these people may engage in stock raising, dairying, gardening and the like. In nearly every state where such farms have been provided they have either been self-supporting or have earned a net annual income to the state. Here in the open air, amid natural scenes, and surroundings, many of these abandoned human beings have known to regain their manhood and womanhood without being either a burden to the state or to the particular community engaging them. No more reason exists why these people should be confined behind prison walls than that they should be summarily executed. The state owes to them the same duty of proper care that it does to its feeble-minded, insane and helpless wards.

Two young men on the same day invest \$100.00 of their employer's money upon the stock exchange. One buys wheat and the other sells it. The purpose of both is the same, to gain something without the usual struggle to obtain it. Neither one means to defraud his employer, but both intend to make full return to him. Wheat goes up, one of them goes on to success and often to wealth, while the other goes to the penitentiary as an embezzler. This story is repeated with but few variations almost every day in a large city. Hundreds and thousands of young men, and many older ones, whose employment requires them to handle their employer's money, either under the stress of circumstances, or because they have not clearly distinguished between what is theirs, and what belongs to someone else, are tempted to use the money in their hands, not with the thought of stealing it, but with the intention of replacing it before their employers will discover the wrong. When the tide turns, and they are not able to restore the money to its lawful owner, they are brought before the Criminal Court. If the amount misappropriated exceeds \$15.00, the penalty is a term in the penitentiary. If it is below that sum the penalty is a fine and imprisonment in the House of Correction for a term not to exceed one year.

Few indeed of these men are criminals at heart. Nearly all of them are hard-working, industrious and generally law-abiding persons. What they lack is moral purpose. Who, in his moments of reflection, will say that the penitentiary is the proper place for these men? They are not enemies of the state, but simply our weaker and more vacillating citizens, whose greatest need is that the state shall more fully protect them from their own weakness. To send them to the penitentiary or the workhouse in no way increases their strength, or enables them to cope more successfully with the problems they are called upon to face. To meet this problem our schools must spend less time teaching compound fractions, compound proportions, and higher percentage, and more time instilling the fundamental principles of honesty and manhood.

The world has always despised a thief. His death upon the cross with the Savior of mankind only emphasized in the public mind the baseness of his character. Yet, there is a wide difference between the real and the imaginary thief. The Forty Thieves of Ali Baba went forth to rob and plunder whomsoever they might meet, in order that they might store up great wealth for the future. But not so with most of our modern thieves. These are generally creatures of sudden impulse, and are moved either by great stress of circumstances, or overcome by a strong temptation against which they have not been trained to fight. They are neither physical or mental defectives, but from childhood their moral training has been neglected. Those who claim that people are born criminals but little comprehend the character of the great number of those who at times have found themselves under the ban of our criminal laws. A child is never born a criminal. It may early be taught to lie, to cheat, and to steal, and the chances are that it will do all of these things, unless it has been surrounded by parents, teachers or associates who will impress upon it certain moral duties which lie at the very base of life. If a child is permitted to grow up without clearly distinguishing between right and wrong, it has a very good start toward a criminal career. Lying and stealing are the same thing. The difference is one of degree only. One always lies to gain some advantage. It may be merely to increase the importance of the liar or to gain greater recognition or social position, but the purpose in lying is always the same, and that is to get something that you are not entitled to. To steal is simply to take something that does not belong to you, and it is very difficult for young men and women brought up amid evil surroundings, who have never learned that to tell the truth is the first law of life, to distinguish between the things that we call simply immoral and the things that we call criminal.

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Truthfulness in childhood means honesty in manhood. With this must go industry, courtesy and punctuality, and all the other virtues which raise up barriers against all forms of temptations that the world presents.

At least forty per cent of the large number of persons brought into the courts charged with larceny are women. Many of these are wives and mothers, whose honesty of purpose cannot be questioned. No day passes in a great city but what many such as these leave their homes and go into the city with no thought of evil in their hearts, but are overcome by temptation, when before their eyes is presented in great abundance, and with lavish display, so many things which they long to possess, in order that they may take their places by the side of others, whom they regard as no better or wiser than themselves, but who because of better fortune are able to make a much more attractive appearance. The more reckless the display upon the counters in department stores the greater the number of those who will be daily brought before the court on the charge of larceny. Among the others whom we call thieves are many young men struggling earnestly against all sorts of adverse conditions to make a living for themselves and their families, but who fail, under a very heavy burden imposed by economic conditions. Many others are employees of railroads and other corporations, who have labored earnestly for years to save a dollar for the future and failed. They have become thieves because the flesh was not equal to the incessant grind of daily toil, unrelieved by moments of leisure and pleasure. I have had many such who have served their employers for fifteen and twenty years, and who had always before been honest, capable and earnest in the discharge of their duty, but who, in an hour of great depression, induced by anxiety for the welfare of the family, have taken from what appeared to them to be the large storehouse of their employers an insignificant part of them. In these cases, if the amount involved is less than \$15.00 the guilty person must be fined and committed to the House of Correction. If the amount taken is over \$15.00 the law leaves no escape; the offender must serve a term in the penitentiary.

In the last few years an earnest effort has been made to avoid the infliction of harsh and unjust punishments. To this end our parole law was enacted, and the trial judge given the power to do real justice to those found guilty of petit larceny. It is inconceivable, however, that an enlightened state should continue to imprison in the penitentiary one whose only offense was stealing sixteen dollars. The distinction in this state between petit and grand larceny should be

abolished, and the parole law amended so as to include all cases of larceny.

The last few years have witnessed the enactment of many new laws aimed at the punishment of crimes against women. Among them are laws commonly known as pandering acts, the white slave law, and laws to punish those who contribute to the delinquency of children. Public attention has been especially centered upon the first two of these, and the public mind has been aroused to a degree never before known, in its opposition to all acts directly contributing to the immorality of women. In my judgment there is much misinformation abroad as to the number of persons guilty of violating the white slave act, and the number of victims of such persons in our large cities.

In an experience of eight years upon the bench in Chicago, two of which were spent in the heart of the worst police district in that city, I have had before me less than a half dozen cases where an innocent girl was lured into a house of prostitution and there detained against her will. This includes cases arising both from within and without the state. There is no doubt, however, but some cases have arisen in Illinois and elsewhere, where women have been taken from one state into another for purposes of commercialized vice, but these cases are comparatively rare and by no means offer an explanation for the large number of women found in disorderly resorts in the large cities. The White Slave Law, when construed according to the intention of its framers, is a valuable addition to the criminal code of the country, but when construed to cover all forms of immoral conduct taking place in two or more states, it is questionable whether it is not more of a menace than a protection to the community.

The pandering act provides that any person who shall procure a female inmate for a house of prostitution, or who shall cause, induce, persuade or encourage a female person to become an inmate in a house of prostitution, or who shall persuade any female to come into this state or leave the state for purposes of prostitution, shall be guilty of pandering, and upon a first conviction shall be punished by imprisonment in the county jail or house of correction for a period of not less than six months or more than a year, or by fine of not less than three hundred dollars and not to exceed one thousand dollars, and upon conviction for any subsequent offense shall be punished by imprisonment in the penitentiary for not less than one year nor more than ten years.

The purpose of the act is most beneficent. It is often, however, difficult of enforcement. The inmates of houses of ill-fame are nomadic. They wander from city to city, from state to state, and seldom stop long in any place. Like persons engaged in any commercialized busi-

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ness they are constantly on the lookout for new places where they may better their condition. Generally when they leave the houses in which they are inmates, they inquire of the waiters, clerks, cashiers and bell boys in restaurants, lunch-counters and hotels, for more desirable locations. It frequently happens that persons whose sole desire is to help these women in a financial way are brought before the court, charged with having violated the pandering act or by persuading or encouraging them to leave their present keepers and become inmates of other houses. The letter of the law, but not its spirit, has been violated. Its purpose was to punish those who for any purpose induced or persuaded an innocent woman to become an inmate of a disorderly house.

A more serious situation frequently arises where persons are arrested charged with having committed the crime of rape. So severe has been the condemnation of the public upon all of those who have been guilty of this offense, that it is often difficult for the accused offender to secure a fair trial. The age of consent in this state is sixteen years. A bill was before the last Legislature, in which it was sought to raise the age of consent from sixteen to eighteen years. Before any action of this kind is taken the whole problem should be carefully considered. As the law now stands, any man of the age of seventeen years or over who has carnal knowledge of a female of the age of sixteen or under, with or without her consent, is guilty of rape, and the penalty is from one year to life imprisonment in the penitentiary. Some account must be taken of the persons most frequently found guilty under this statute. No regard may be felt for the brute, who would wilfully destroy the life of a child of this age, but less than one out of ten of the men brought into court upon this charge, are of that character. But nearly all of them are boys ranging in age from seventeen to twenty years; most of them pupils of the public schools, or otherwise employed in an effort to aid in the support of the family, who have but casually met upon the public street, or in the parks, one or more of the young girls ranging in age from fourteen to sixteen, who are to be found almost every evening upon the public streets, not in the down town districts, but in the residential parts of the city. But few people realize to what extent some of these girls are a menace to the community. They either have no parents, or have gotten entirely beyond parental control, and walk in the streets at night, endeavoring to attract the attention of boys. They have already lost all sense of virtue and modesty. Their language when brought into court is unspeakable. It is but little wonder that many boys fall victims to the wiles of these creatures. To send boys of this class to the penitentiary would be a crime, committed in the name of the state. To send them to the Bride-

well would be equally wrong. The law, however, leaves no discretion. What, therefore, is to be done? Certainly the probation law should be made to cover these cases.

While we have been very diligent in the last few years in passing laws for the protection of women and girls, we have entirely neglected the boys. It is not an offense in Illinois for the keepers and inmates of disorderly houses to issue their business cards, and distribute them about the schools of the city. There is no law by which such solicitors may be prevented from debauching and destroying the lives of the boys and young men of the community, and such solicitation has not been infrequent. It should be made a serious offense, punishable with imprisonment, for anyone to solicit, induce, encourage, or admit a minor to a house of prostitution. Nor, should the age of consent be raised, unless at the same time, we raise the age of responsibility for the boys, and make it possible for them, through the parole law, to be given another chance to show what manner of men they will become.

In what has thus far been said about crimes, no mention has been made of the more serious offenses against the person, such as murder, manslaughter, burglary and robbery. But these offenses constitute but a very small volume of the crime in our cities. In 1912 only one case in 1,200 was for murder, one in 2,600 for manslaughter, one in 110 for burglary, and one in 100 for robbery.

With a more or less intimate view of the persons who are continually brought before the criminal courts, we may turn our attention to the other, and perhaps more important question: What ought to be done with these people? It will not be found necessary to go back very far in the history of governments to find the time when there were no penitentiaries and workhouses. Prior to one hundred years ago, prisons were merely places of detention. They were generally built underground and consisted mainly of fearfully damp and foreboding dungeons. The thought of the people at that time was that the more dismal and wretched the prisons, the more fully it performed the function for which it was intended. Its sole purpose was to punish severely those who had broken the law. Into these dungeons all prisoners, without regard to age, sex, mental or physical condition, were thrown promiscuously. Here they were herded together in places that reeked with filth and vermin. Any violation of the rules brought severe and instant punishment, and often death. A feeling of opposition gradually arose against this intolerable condition, and the penitentiary at Auburn, New York, was constructed, the first of its kind in the United States. There was at that time much criticism against those who favored the new kind of prison.

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Often thereafter bills were presented to the legislature, seeking to abolish the penitentiary at Auburn, and to return to the old underground dungeons. At one time a bill was brought before Congress, wherein it was proposed to establish a penal colony at the mouth of the Columbia river, to which all criminals might be banished. Little did the people of that day know what a beautiful and bountiful garden nature had designed at the very spot where they proposed to send these outcasts. Gradually, other penitentiaries were built, and each year saw a change in the general outline and plan of buildings. The dungeons in the penitentiaries were eliminated, dark cells were removed, more windows inserted, and light let in. The same impulse led to the employment of prisoners, in order to relieve them of the long monotony of silent imprisonment. It also led to the building of jails, more commodious and sanitary.

As our viewpoint has changed with reference to the purpose of punishment, we have now become opposed to the system of contract prison labor. Prisoners farmed out to contractors are little less than slaves, held by the state and delivered by it, to cruel and unreasonable task masters. Gradually, as the injustice of the whole system has been impressed upon us, it is being abolished.

A closer study of the problem of crime and its punishment has led those most familiar with the subject to the conclusion that it is not the wisest course for the state or the community that they should annually spend millions of dollars in erecting and maintaining prisons, whose sole purpose is to afford a place where the penalties inflicted under the law may be carried out. From a financial standpoint, the whole scheme of imprisonment has been a failure, and has laid upon the state a great burden of debt. From the broader standpoint of the highest interest of the state, it is still more of a failure. Few persons who have been committed to these prisons for any length of time come out of them better citizens than when they entered. Their physical, mental and moral well-being have generally suffered a shock, from which few of them recover. It is important to inquire whether there is not some better way by which the state may be relieved of this great financial burden, and at the same time the men and women who have violated the criminal laws allowed to work out their penalties in a manner which will not so completely destroy their manhood and womanhood. Many men who are heads of families are daily committed to prison, and their families, left without proper support, become a charge upon the community. When we send a man to the workhouse, and leave behind him his destitute family, without properly providing for its care, we certainly have not strengthened the good citizenship of the state. Many of the families thus left dependent are surrounded by all sorts of evil conditions, and their natural

trend is toward a violation of the criminal laws. It is of the utmost importance, therefore, that when the state takes away the head of a family it should see to it that from the earnings of such person, while in the custody of the state, there shall be paid to the dependent family at least part of such earnings. Two questions, therefore, arise in dealing with the execution of the penalty:

First: How can the state, in the best and most economical way, care for those who have been found guilty of violating the criminal laws, and upon whom penalties have been imposed?

Second: How can the state best provide for the care of the prisoners' dependent families?

These problems are not new in this country. Many states have been buying and equipping large farms, upon which prisoners, whose crimes are less grave in character, are employed. Here the prisoners work in the open at all kinds of agricultural pursuits. Most of such farms are either self-supporting, or yield a net income to the state, and the health and morals of the prisoners much improved.

The following are some instances of successful operations:

The first convict farms were operated in the South. North Carolina has for many years conducted a farm of 6,000 acres at Tillery, where 450 prisoners are engaged in raising corn, cotton, peanuts, wheat and oats. The annual sales from this farm of produce have for several years ranged from ninety to one hundred and twenty-five thousand dollars per year, being more than enough to fully pay for the entire expense of operating the farm and caring for the prisoners.

Mississippi has had three large convict farms, one of twenty thousand acres at Sunflower, another of 20,000 acres at Belmont, and another hospital farm of 1,200 acres near Jackson. Upon the latter farm the sick and invalid prisoners are kept. Upon the other two farms there are from 1,900 to 2,000 convicts. These farms were all operated at a profit, until the last two years, when the bollweevil made it practically impossible for successful farming in Mississippi.

Georgia has a large state farm for convicts at Milledgeville.

Texas has eleven different convict farms, seven of which are owned by the state; the others are leased and operated by prison labor. These farms aggregate forty thousand acres. Last year an average of 3,696 prisoners were cared for by the state. Of this number only 670 were confined in prisons and 3,000 were engaged in agricultural work upon the various farms. Upon some of these farms workshops have been erected. Nearly all of the farms yielded a net profit for the state after paying all expenses of operation.

West Virginia has a convict farm at Moundsville, containing 250

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acres. The prisoners there are nearly all engaged in raising vegetables and dairying. Last year the farm showed a net profit of \$5,000 to the state.

Alabama has several state farms, one at Wetumpka, and the other at Spargner. While these farms have not proven financially profitable, the superintendent reports that the prisoners have been much more contented and healthy than they were under the old system.

Louisiana has three large farms, one at Angola on the Mississippi river of 8,000 acres, 4,000 of which is under cultivation, another at St. Gabriel of 2,800 acres, another at Janerette of 4,800 acres, 2,500 acres of which is clear and under cultivation. The convicts here are engaged in raising sugarcane, corn, peas and nearly all kinds of vegetables used in the markets. They are also employed in building levees on the Mississippi river and its tributaries. The superintendent reports that since the farm system was adopted, the health of the prisoners has been much better and the death rate much lower. Previous to 1912 nearly all the farms showed a net profit to the state, after paying all expenses of operation.

Delaware has a penal farm of 1,000 acres, from which it has raised nearly all the provisions consumed in its penal institutions.

Arkansas has a state convict farm, consisting of 10,000 acres, which has been operated for a period of 10 years. During that period nearly every year has shown a large net profit to the state. In the year 1913, there was sold from this farm \$165,367.41 worth of farm produce, while the cost of operation was \$61,661.12, leaving a net profit to the state of \$103,706.29.

Florida has two state farms, one at Raver and the other at Ocala, to which nearly all prisoners, that have heretofore been under contract, have now been transferred, a law having been enacted in that state in 1913, abolishing contract prison labor.

The state of Virginia operates a convict farm of 1,300 acres at Lassiter. This has a capacity of 350 persons. The total cost of maintaining the institution for the year 1912 was \$32,924.65. The total receipts from the products raised on the institution's farm during the year was \$29,262.15. The total amount received by the institution from other sources, being for board of prisoners, etc., was \$25,877.76. All kinds of agricultural, gardening and stock raising were followed upon this farm.

In the North the plan of employing prison labor upon farms has recently been given great encouragement. The state of New York has now a large penal farm at Comstock, where it is engaged in carrying on all kinds of agricultural, tree planting, dairying, etc.

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Massachusetts has a convict farm of 1,500 acres at Bridgewater, where men convicted of drunkenness and vagrancy are sent, and employed in all kinds of farm labor; 1,400 prisoners are now kept upon this farm and all that are physically able are engaged in some sort of out-door pursuits. It also has other prison farms at West Rutlands, Worchester, Plymouth and Fitchburg, upon all of which the prisoners are kept in the open air and engaged in some sort of agricultural pursuit.

The Legislature of Vermont in 1913 passed a bill providing for the purchase of a farm, upon which convict labor could be employed. The bill was vetoed by the governor.

Minnesota has given an example of successful operations. Last year the county of St. Louis, in which the city of Duluth is located, purchased 1,000 acres of land, five miles from Duluth, for the purpose of establishing a city work farm. The county and city share equally in the expense of the institution. The farm is under the supervision of a commission of five men, three appointed by the county commissioners and two by the city commissioners. Money appropriated by the city council is turned over to the joint commission to be used in operating the farm.

Since opening the farm on January 8, 1912, many prisoners have been employed in clearing land, erecting camps, building barns and tool sheds. In the winter the men are engaged in cutting logs. A saw mill is just being established. There is much stone upon the land, which will be worked into building material for roads. The general plan of the institution is not to build permanent buildings, but to operate the farm from camps, and after the farms have been improved to the highest possible degree, sell them in the open market, and buy other tracts of land, and repeat the operation.

At Wilmar, Minnesota, the state has established a hospital farm for inebriates. This farm contains 500 acres of good land. The men who are sent here are generally sent for a period of not less than six months, and are set to work in the open, doing all kinds of farm labor. In addition to farm labor some of them do carpenter work. Thus far the institution has been remarkably successful.

Michigan has a farm of 1,200 acres near Jackson, where 100 men are kept. This farm is not only financially successful, but is otherwise proving of great advantage to the health of the convicts who are worked upon it.

Governor Baldwin of Connecticut reports that he has recommended to all wardens of prison in his state that prisoners be kept in the open air as much as possible.

Pennsylvania has just bought a farm of 5,262 acres in Center

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county, upon which it proposes to employ those of its convicts who can reasonably be trusted to work there.

Governor Blease of South Carolina writes that the state has several farms which it has operated for some years, but that the prisoners are now nearly all being sent back to the counties from which they came, to work upon the roads.

The state of Washington has recently established "honor camps" at several points, and the men sent to these camps will be engaged for the next few years in working upon the public highway.

Idaho has just purchased a farm near Boise, to be operated by prisoners.

Oregon has a prison farm, upon which at least fifty men are constantly engaged, and where all the dairy products used in the prisons, houses of correction and other institutions are raised. By this means the cost of maintaining the other prisoners has been reduced to less than six cents per man per day.

The last Legislature of Indiana voted to purchase a tract of land to be used for a convict farm.

Oklahoma has a farm of 2,000 acres at McAlester devoted entirely to the use of prisoners. Out of a total of 1,300 prisoners in the state, 500 are continually worked on this farm without guard.

The farm idea has long been accepted in nearly all European countries.

Switzerland some years ago, by federal law, established labor colonies in all of its twenty-two different cantons. These colonies were of two kinds, one where the sick and unemployed might go voluntarily, and the other where those who were guilty of minor offenses against the criminal law should be committed. The largest colony of this kind is located at Witzwyl, and contains 2,000 acres. There the government keeps its vagrants and other petty offenders who are engaged in reclaiming the land and in general farm work. It has spent \$300,000 upon the plant, which is now worth \$550,000. In addition the farm not only has paid all operating expenses, but has annually paid a net surplus income to the state. Besides cultivating the land, the prisoners make wagons, carriages, shoes, etc. The cost of operating nearly all of the Swiss colonies has been met by the income from them. In addition to the large colony at Witzwyl there is one of 400 acres at St. Johansen, another at Appenzel of 100 acres, another at Berne of 2,000 acres, and two large colonies at Luzerne and Liesthal. The annual cost of maintaining a prisoner in these colonies is from \$60.00 to \$70.00.

Germany has thirty-four separate labor colonies. These accommodate over 4,000 persons. One of these colonies at Vielfeld contains 2,000

acres. Admission to the colonies may be voluntary, but many persons are committed to the farms to work out minor penalties. That cost per annum for each person in the colony is about \$50.00, and the earnings per annum something less than that. Where detention in these colonies is compulsory it cannot be continued for a period of over two years, and by reason of the fact that many of the inmates are there voluntarily, the average earnings are comparatively small. In the large workhouse at Gros Salze the annual cost of operation and maintenance is \$65.00 each, while for several years the annual earnings of the inmates has been about \$56.00. In another workhouse at Montzburg the annual cost of operation per person was \$66.00, and the annual earnings \$51.00. Several of the workhouses in Germany last year showed a net profit, after paying all operating expenses. This was particularly true of the one at Breslau. The inmates in these workhouses were engaged for the most part in agriculture. Many, however, worked in shops where they were taught all kind of trades. The workhouse for the city of Berlin has connected with it a large farm upon which is continually kept about 2,000 beggars, vagrants and habitual drunkards. Most of these are engaged in agriculture, and for several years the institution has been upon a self-supporting basis, in addition to crediting to the inmates a part of their earnings.

The largest institution in Europe, devoted to the care of tramps, beggars, vagrants and the lesser criminals, is located at Merksplas, Belgium. Here there is a farm of 5,000 acres, upon which is kept an average of 5,000 inmates. The superintendent reports that the great majority of the inmates are there because of drink. They are engaged in farming, in land reclamation, and in the manufacture of all articles that may be used in the colonies, or that may be more readily disposed of outside of them. The annual cost of operation for the last four years has been about \$45.00 for each inmate, but the receipts during that time from the labor of the inmates have exceeded the total cost of maintenance and operation.

Holland has a like institution at Veenhuisen, which contains 3,000 acres and has an average of 3,500 inmates, all of which are engaged in agriculture, forestry and gardening, and were sent to the institution after conviction for vagrancy, public begging or drunkenness. The institution is self-supporting.

It is undoubtedly a great step in advance for the state to remove its prisoners from penitentiaries, jails and workhouses, and employ them upon large farms, where they will be more healthy, and where the expense of maintenance will be much less, and the cost to the state reduced to a minimum. Yet it is still more important that the state shall

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see to it that some part of the earnings of the prisoners, under its charge, in whatever character of work these prisoners may be engaged, shall be paid to their dependent families. Many states have worked out the problem more or less satisfactorily. Among them is Massachusetts, whose legislature, in 1911, passed an act providing that the master or keeper of any reformatory or penal institution, who has confined in such institution one found guilty of deserting his wife or minor child, where such wife or minor child is in needy or necessitous circumstances, may pay over to the probation officer, at the end of each week, a sum equal to fifty cents for each day's labor performed by the person in his charge. During the first year of the operation of this law \$6,831.89 was paid to dependent families.

During the same year the Legislature of Ohio passed a law providing that the county from which a prisoner was sent to state prison should be required to pay out of its general revenue, the sum of forty cents per day for each prisoner confined, who had deserted his wife or minor child, and that this sum should be expended, by such county, under the direction of the county judge, for the maintenance of such dependent wife and minor child. This law was amended in 1913, and now provides that the payment of from two to five cents per hour shall be made to the dependent family for all the time a prisoner is employed during his imprisonment. During the first month of the operation of the new law \$6,931.09 was paid to dependent families. This went to 377 different persons.

The Legislature of California in 1911 passed a law providing that all persons confined in prisons, having been convicted of wife abandonment or of non-support of wife and child, and sentenced to imprisonment in the county jail or elsewhere, should be compelled to work upon public roads, highways, or other public work, and when so engaged the board of supervisors of the county so employing them should allow to the wife and dependent child, at the end of each calendar month, a sum not to exceed \$1.50 per day for each day's work of such prisoner. This law has been practically a dead letter in California, because the supervisors of the counties have refused to employ prisoners upon public roads or upon public work, upon the plea that the cost of guarding them would be greater than their earnings.

The Legislature of Minnesota in 1908 passed a law, providing that the state board of control may pay to the dependent families of prisoners such part of the earnings of such prisoners as the board may deem proper, such earnings to be paid out of the funds provided for carrying on of the work in which the prisoner is engaged, when employed on state account or by a contractor. Under this law the monthly allowance

to dependent families by the reformatory at St. Cloud was \$480.00 and at Stillwater \$430.00.

Ever since 1898 the earnings of the Minnesota State Prison at Stillwater have exceeded the cost of maintaining and operating that institution. In 1912, the annual expense per capita for this institution was \$215.15, and the earnings per capita were \$396.33. The average number of inmates daily was 769. The total earnings credited to prisoners and paid out by the board of control to their dependent families at Stillwater for the year 1912, was \$36,000, and for the year 1913, over \$40,000. Notwithstanding this payment, the net profit to the state of the prison at Stillwater for 1910 and 1911, was \$215,255.00. Connected with this prison at Stillwater is a farm of 160 acres, and many of the prisoners work upon this farm, where they produce in large part the vegetables, potatoes and other things consumed in the prison.

In 1912 the Legislature of New Jersey passed a law providing that whenever prisoners are employed by the state or by any of its political subdivisions, they shall be credited with a sum not to exceed fifty cents per day for each working day, and these earnings paid to their dependent families.

The state of Washington in 1913 enacted a law, directing that fifty cents per day be paid to the dependent families of all prisoners working in their honor camps.

The Legislature of Utah in 1912 passed a law giving the board of prison control of that state the right to credit unmarried prisoners with a sum not to exceed ten per cent of their net earnings, and married prisoners a sum not to exceed twenty-five per cent of their net earnings, the same to be paid by the board of control to their families.

The state of Texas provided three years ago that ten cents per day should be allowed as a credit to each prisoner, when that prisoner has a family dependent upon him, and shall be paid to the family.

The state of South Dakota in 1913, provided that a part of the earnings of prisoners should be paid to their dependent families, and the amount to be paid was to be determined by the Board of Charities and Correction. Under this law the state penitentiary at Sioux Falls, where there are 216 inmates, has paid out a large sum of money.

Michigan has a law, which provides that the superintendents of prisons shall send to the county poor authorities, from which prisoners are sent, who have deserted their wives and children, the sum of \$1.50 per week for the wife, and fifty cents per week for each minor child under fifteen years of age. Under this law the prison at Jackson paid to prisoners or their families the sum of \$70,000.

The state of North Dakota in 1911 provided that the wardens of

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prisoners may pay a certain portion of the earnings of prisoners to their dependent families, the amount to be determined by the wardens themselves, based upon the condition of such families.

The Legislature of Kentucky in 1913, passed a law giving the state prison the power to pay a certain portion of the earnings of convicts to their dependent families.

The state of New Hampshire in 1913 enacted a law, by which the governor and his council shall decide how much should be paid from the earnings of prisoners to their dependent families, the same to be paid from any public revenue available.

The state of Delaware recently passed a law providing that all men convicted for non-support shall be allowed fifty cents per day when engaged at work, and this shall be sent to their dependent families.

The Legislature of the state of Idaho at its last session provided that the probate judge of each county should cause to be paid to the wife, whose husband is imprisoned, a sum not to exceed \$10.00 per month, when she has but one minor child, and \$5.00 per month for each child thereafter under fifteen years of age.

The state of Oregon passed a law providing that twenty-five cents per day should be paid by the superintendent of workhouses to the wife of a prisoner, and fifteen cents per day extra for a minor child, where such prisoners are engaged in work upon public roads. Under this law last year there was paid by the state the sum of \$10,000 to dependent families.

Last year Nebraska enacted a law providing that one-half of the wages of a prisoner should be set aside, to be paid to his family, if such family is dependent.

The state of Wisconsin has just passed a law which provides for the payment of the earnings of prisoners to their dependent families, after deducting the cost of their keep. In ascertaining the cost of their keep much difficulty has arisen. It is figured this cost will be about \$3.40 per week. The law has not yet been tested.

Pennsylvania has a law providing that prisoners shall receive their earnings after there has been deducted only the cost of lodging, clothing and food. Although this law has been in operation for many years, nothing has ever yet been paid under it.

It was provided by the Legislature of Rhode Island in 1912 that the probation officer might allow a certain part of the earnings of prisoners to be paid to their dependent families.

The District of Columbia offers a valuable experience in the direction of successful farm operation by prison labor.

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In 1910 the Prison Commission of the District of Columbia purchased 1,050 acres of land in Fairfax county. On this farm the district placed its jail prisoners. Since that time buildings have been erected, six miles of road constructed, 500 acres of land cleared, and the institution provided with a water system and an electric light plant.

Since 1910, between 7,000 and 8,000 prisoners have been received at the farm. In 1906 Congress enacted a law for the District of Columbia providing that fifty cents per day should be paid by the prison authorities to the families of prisoners, confined in district prisons and required to work. For the year ending June, 1910, \$30,808.28 was earned and paid to prisoners under this law. In 1911, \$38,648.87 was paid. In 1912, \$39,205 was paid.

The amount paid directly by this institution to dependent families of prisoners has amounted to a little over \$10,000 annually.

Apparently the most successfully operated prison in the country is the Detroit House of Correction. In 1909 the Common Council of the city of Detroit passed an ordinance providing for the payment of a certain part of the earnings of the prisoners confined in the Detroit House of Correction to the dependent wives and children of such prisoners. There was no state law existing at that time touching the subject. The ordinance was as follows:

"On July 1st of each year there shall be paid over to the Poor Commission of the city of Detroit, out of the funds of the institution, the sum of \$5,000, the same to be utilized exclusively by them in aiding the families of such prisoners committed to the institution from courts of the city of Detroit, as may be found in need of assistance, the sum appropriated each family not to exceed \$1.00 for each working day the prisoner remains in the institution."

The act went into effect July 1, 1909. During the first year there was a daily average of 385 prisoners in the institution.

During the first year Superintendent John L. McDonald paid out to dependent families of prisoners \$9,670.00 as compensation for their labor. After paying this amount, and paying all operating expenses, there was a net profit to the institution of \$24,355.87, from which a further sum of \$5,000 was paid by the Prison Board to the Poor Commission of the city of Detroit, to be used by them for the dependent families of prisoners.

In the year 1911 the superintendent of the prison paid out to the dependent families of inmates the sum of \$13,976.70. In addition, \$5,000 was paid to the Poor Commission of Detroit, to be used by it to relieve the distress of the families of prisoners. After making these

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two payments, and paying all operating expenses, there was a net profit of \$15,000 paid by the superintendent of the prison to the city treasurer of Detroit.

Since the prison was established in 1909 it has not only paid back to the city of Detroit all of the original cost of the prison, but has annually paid a net income to the city of Detroit.

In sharp contrast with this is our own institution.

In 1868 the city of Chicago purchased fifty-eight acres of land, at the cost of \$29,000. Upon this ground is now located the city's House of Correction. The average population of this institution, for the last few years, has been about 1,722. The capacity of the institution is about 2,300, and at frequent intervals the full capacity has been reached. The average cost of maintaining the institution per day is about \$796.75. The average cost of maintenance per day per inmate is 46.2 cents. The average yearly cost of maintaining the institution from 1907 to 1914 was about \$300,000.

In 1913, the cost of maintenance was \$308,770.32. The total revenue received from all articles manufactured in the institution for that year was \$82,785.35. It also received from other municipalities the sum of \$78,357.68, for boarding prisoners, making the total revenue of the institution for that year \$161,143.23, leaving a net loss to the city for the year of \$147,627.09.

The brick and crushed stone industries are the most important in which the prisoners are employed. The number employed in manufacturing crushed stone averages 223 per day. The average earning of each of these men per day, based upon the sale of the manufactured product, was only $4\frac{1}{4}$ cents. The average cost of maintenance per day for each was 46.2 cents per day, leaving a net loss to the city for each of these 223 men per day of 42 cents.

The showing in the brick industry is but little better. During the year 1913, an average of 178 men were engaged in making brick. The average daily earning of each of these men, based upon the sale of the manufactured product, was 30 cents. The average cost of maintaining them was 46.2 cents per day, leaving a net loss to the city for each man so employed in the brickyard of 16.2 cents per day.

The total net loss to the city of Chicago in operating its House of Correction from 1907 to 1913 inclusive, was about one million dollars.

The cost of furnishing the provisions alone for the institution for the year was \$75,662.20.

If, in connection with this institution, there was a large farm of from one thousand to four thousand acres, almost all of the provisions of the institution could be grown upon the farm, and the other indus-

tries now there might be enlarged and made more efficient, if operated in connection with every form of agricultural endeavor.

In our study of criminology we have always laid the most emphasis upon the question of how to determine whether or not the accused is guilty of the offense charged against him.

More recently psychopathic laboratories have been established in some jurisdictions to aid in determining the legal responsibility of persons who have violated the criminal laws.

The problems of the trial judge are only made more difficult, after it has been scientifically determined that the accused is subnormal and possessed of a low grade of intelligence.

Usually he is all the more a menace to the community if he is of this type, and for that reason must not be set at liberty. He is, however, not insane, and cannot be committed to an institution for the feeble-minded.

All the more reason is therefor presented why there should be a readjustment of penalties, in order that they may be made to fit the particular offender, and that these penalties shall be worked out in a manner that will bring the largest good to the state and to the prisoner.

To this end the following recommendations are made:

1st. The state of Illinois should purchase at least two farms containing from 3,000 to 4,000 acres each, and located nearest to its centers of population. Honor camps should be established on these farms, and a sufficient number of prisoners placed in them to erect the buildings necessary for proper housing; barns for the stock, and workshops for the men engaged in the various industrial pursuits.

The farms should be so divided as to permit the prisoners to engage in all kinds of agricultural work, including forestry, fruit raising, gardening and stock raising.

2nd. Every warden or superintendent of prisons should be directed to pay to the dependent family of a prisoner not less than 50 cents per day for any day such prisoner works, while incarcerated.

3rd. The system of fining prostitutes and inmates of disorderly houses should be abolished, and the courts given the power to commit such persons to an institution where they may receive proper care.

4th. The adult probation law should be so amended as to include within its provisions every crime except murder and treason.

5th. It should be made a penal offense for anyone to solicit, induce or admit a boy under the age of twenty-one years to a house of prostitution, or to a disorderly house, for the purpose of prostitution.