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## Correspondence

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## CORRESPONDENCE

### IDLENESS IN THE PRISONS.

The problem of unemployment has been shifted from the country at large, to the realm of celldom. This is the situation that has been brought about in the prisons and reformatories of the country by the elimination of the contract system and the failure to substitute adequate industries to take their place. This situation is destined to be aggravated in the near future if certain bills now before Congress to prevent the inter-state sale of prison made goods should pass. The increase of idleness, inefficiency and insanity in all the prisons of the country, followed by an increase in crime, is likely to be the result of any further limitation in the sale of prison made goods.

The measures referred to, known as the Hughes-Booher bills, have been recommended out for passage by the Senate and House committees. They are opposed by practically all experienced prison wardens and penologists. They are favored, of course, by the Federation of Labor. The employment under private contract has long been opposed by labor organizations, as is well known. They have objected to direct competition between prison labor and free labor. Legislatures have harkened to this plea, not usually for the benefit of the state or convict, but as a political measure. Contracts have been cancelled in state after state during the past ten years, while in most cases no adequate substitute has been provided for suitable and sufficient work. On the contrary, in many states, the new legislation has definitely limited the use of prison inmates to work that is unproductive.

Now, most intelligent observers believe that the passing of the private contract labor system from many prisons of the country has been a move in the right direction. They would not want to see its return, at least with its old abuses. We are not here advocating any one of the many systems of employing prison labor. But we are contending for the fundamental right of men to work, whether in or out of prison. We are deploring the present condition of idleness and the consequent result of inefficiency and insanity.

I am calling attention to the fact that most states are violating their own laws and acting in "contempt of court," if you please, by sentencing men to "hard labor," and then deliberately keeping them in idleness. While it is not generally realized, that is exactly what

most states are doing at the present time. The public should realize the situation, and every good citizen should help find a remedy. Surely the brains of America should be able to solve the prison labor problem. That it has not done so, is due to public indifference, political corruption, and the need of more men of business ability, as well as humanity and vision, to administer all penal institutions efficiently, as a few are now being conducted.

A few facts will throw light upon present conditions, and if the facts are overdrawn, evidence to the contrary will be welcome. Attention has recently been called to the fact that 800 men in the Missouri state prison are kept in complete idleness in their cells day and night. At the end of the present year, when the last of its contracts expire, the other 2,000 prisoners will be thrown into idleness. This is certain, because no definite program has yet been adopted for employing the men. Money has not been appropriated for that purpose and the political factions are quibbling as to what should be done.

Very much the same situation obtains in the state of Ohio, where 400 or 500 men sit in the "idle-house," week in and week out. Meanwhile, the provision of the law, by which state institutions are required to purchase prison products, and cities and counties may do so, is altogether inadequate to furnish employment for the inmates of the state prison. Pennsylvania has recently, by legislation, thrown 500 men into idleness, and the failure of New York state to furnish sufficient employment for its 5,000 prisoners is well known. As a matter of fact, judging from recent observation in various prisons from the Pacific to the Atlantic, it may be truthfully asserted that there is scarcely a prison in the country that has sufficient employment for all its prison inmates.

The situation would not be so serious if it merely marked a transition from one system to another and if we could see a great promise of improvement. But apparently this is not the case.

New York state has had no contract prison labor for 24 years. That would seem to be sufficient time to substitute some effective, efficient, rational method by which all its prison population could be employed, and at a profit to the commonwealth.

Quite the contrary result is found. The system as a whole is an enormous expense to the state. Practically all of its petty offenders, sent to its various large county penitentiaries or "work houses," are entirely without work. The inmates of its state prisons have insufficient employment, and the extent to which its reformatories teach trades seems to be problematical. One of its leading experts; Dr.

Katherine B. Davis, is authority for the statement that the correctional institutions of New York City, at least, fail to furnish exactly the things we think most essential to good citizenship outside of prison. viz: "The incentive to toil, and the efficiency of labor."

As a matter of fact, should not these be the primary purposes of any correctional system? Can we expect them to be realized while the political motive and spirit dominates these institutions? Can we hope to secure the payment of prisons for themselves, or their families (a thing which most people believe to be desirable), until prisons become self-supporting? Nearly all are a burden to the state, either because the products of their industries cannot be sold under the laws, or because business management is not considered essential to their administration.

Two arguments have always been advanced in favor of abolishing contract labor, and these are now being put forward to secure the further limitation in the sale of prison-made goods.

The first of these arguments is: That the prisoner is in open competition with free labor. Inasmuch, however, as prison labor is only 1/10 of 1% of all labor, and the prisoner would be in competition with his fellow laborer whether in or out of prison, it would seem the force of this argument has been over-estimated.

The second contention is in the same direction, viz.: That the general sale of prison-made goods results in harmful competition to other manufacturers in the same line. It is perhaps true that this has been the case in a few instances. It should be noted, however, as a matter of fact, there has been no clamor from manufacturers for the passage of the measures I have cited. On the other hand, the injury from idleness in the prisons, and the consequent menace of insanity, is of so much greater importance, that the economic argument which has been exploited, takes a decidedly secondary place.

Referring to the matter of competition with free labor, the following paragraph from a leading warden who has been successful in the management of his prison industries, furnishes a fairly direct and reasonable answer:

"All productive labor is competitive, it matters not whether it be within or without the prison walls; whether the prison labor be contract, state use or state account. When a man is sent to prison and put to work at some productive industry, competition is neither increased or diminished. The same individual before his sentence was in competition with other free labor, and when he is released he will go back to society and live on as before. The mere fact of his being in an institution does not change the

nature of the case. Thus, productive labor in penal institutions is only supplying the basis for reformation, as well as the necessary elements for the development of the normal man."

As to the whole question of competition and the distribution of prison-made goods, the following paragraph, coming from a leading business man, indicates some of the difficulties involved in this question and the practical standpoint from which it should be considered.

"A great deal has been said about prison-made goods sold below the market price. The only case of this that we know of is in states like Minnesota, Wisconsin, Michigan, Indiana, and where prisoners are making binder twine and selling it to the farmers at a somewhat lower price than the trust, and thereby saving the farmers hundreds of thousands of dollars every year. There may be isolated cases of where goods are sold at times below the market, as there would be in the regular market channels, but as a rule it can be positively stated that goods made by convicts are as good as those made by any other class of people and that a fair market price is obtained for them.

"Goods manufactured in prisons could not be sold within the state for the reason there exists established channels of trade. The product reaches the consumer through the jobber and retailer. A jobbing house of any size conducts business in numerous states and in many cases throughout all the territories of the United States. The jobber would refuse to handle any product, the distribution of which was subject to numerous and varied interpretations of legal restrictions by the several state courts, especially when a penalty is attached for all violation. It would necessitate a legal department connected with the sales department to determine when and where a product might be sold. To restrict the territory in which a product may be sold is to make the product absolutely impossible for the jobbing trade, and, it is hardly necessary to state, that it would be impossible to get jobbers or others to distribute merchandise that was branded in whole or in part as illegal."

The question is frequently asked, why not solve the prison labor problem by road work and putting men upon honor farms? Much of this sort of work is being done at the present time and by many it is assumed to promise a remedy for the evil of idleness. A little thought, however, will show that, while this kind of work is good as far as it goes, this sort of labor can never provide for more than a small per cent of the prison population.

Road work cannot be done throughout the year in many parts of the country, and only such inmates as can be put upon their honor can engage in it. This must be the case, unless the state should resort to chain gang or gun guard methods, which are not in accord with

present day ideas of dealing with prisoners. Moreover, it will be found that many counties will not pay for road work, and that the cost in other instances is prohibitive.

As to the honor farm, here again is furnished an outlet for a comparatively limited number of men. A small force of men can operate a very large farm. At the Joliet penitentiary 150 men live upon the farm of 2,500 acres. This number, however, is much larger than is needed. At Jackson, Michigan, the two farms of 300 or 400 acres each, require not more than 25 or 30 men to do the work of each farm, including the raising of fruit and vegetables for canning purposes.

Information I have recently received from about 60 of the leading prisons of the country show that there are at present fewer than 10,000 men working outside prison walls, either at road work or upon honor farms. This number, as will be understood, is considerably less than 10% of the entire prison population. Out of the above number only about 6,000 of these men have sleeping quarters outside of the prison and entirely on their honor. Thus, it will be seen that outside work cannot by any means furnish a solution of this vexed question.

Meantime, the lesson of idleness and inefficiency is being taught by many states and the menace of insanity is growing more appalling. This fact is bound not only to produce an increase of crime in future years, but to reflect upon labor as a whole. The great majority of prisoners are from the ranks of industry and will go out into factories and work shops in the future. If they have become inefficient by reason of the state forcing them into idleness, that will reflect upon labor as a whole, and they will be dismissed from employment, not because they are released prisoners, but because they have fallen below the standard of efficiency.

The above considerations should bring all thoughtful citizens to serious reflection and cause them to use their influence against the passage of the bills now pending before Congress.

F. EMORY LYON,  
*Superintendent Central Howard Association, Chicago.*

## PUBLIC DEFENDER.

I have read with much interest the letters written by Messrs. Mayer C. Goldman and Henry A. Forster, Secretary of the Committee on Law Reform of the Association of the Bar of the City of New York, on the question relating to the necessity and advisability of creating the office of public defender in this city. Mr. Goldman's arguments have appealed to me (this Journal, September, 1915). I shall ask you, as a layman, to allow me to offer the following remarks in open espousal of this new reform.

The creation of the office of public defender, as asseverated by its most prominent advocates, is necessary because:

1. The poor have to prove their innocence.
2. They are given the third degree.
3. They have to be satisfied with inexperienced or lax appointees of court.
4. They plead guilty through ignorance or fear when they are not guilty, or they plead guilty of a greater offense than they should.
5. "Wise criminals of many priors," on the other hand, plead guilty to a minor offense and get a light sentence in return.
6. A public defender would give a speedy trial.
7. He would give an adequate defense.
8. A public defender would not "undermine" the work of the district attorney nor secure acquittals regardless of the merits of the case.
9. The disparity between the rich and the poor would be wiped out.
10. Unmeritorious appeals would not be taken when public defenders represent most or all persons.
11. The poor with meritorious cases will be given a chance to appeal.
12. The expense of the administration of the public defender office will pay for itself, since there will be a saving in other ways, as in shorter trials, pleas of guilty, shorter waits in jail awaiting trial.
13. But if the expense of the office were as great as that of the public prosecutor, the state could well sustain the cost, because of the benefit to the individual, to the law, and to society.

Mr. Goldman reasonably claims that the following benefits will accrue from the adoption of the office of public defender (Fifth Report, Law Reform Committee, pp. 11-12):

1. That the rights of defendants in criminal cases would be better preserved.
2. That their cases would be more honestly and ably presented.
3. That there would be fewer unscrupulous and perjured defenses.
4. That our prisoners, poor or rich, would be placed upon a true equality before the law.
5. That the truth in any trial could be more satisfactorily established.
6. That there would be less opportunity for disreputable attorneys to obtain delays in the trials of cases in order to extract fees from an unfortunate defendant, or from his relatives or friends.
7. That the trials in criminal cases would be expedited.
8. That there would be fewer pleas of "guilty" by prisoners at the instigation of attorneys who do not care to be burdened with trials in cases where they receive no fee.
9. And that the tone of the criminal bar and of the criminal courts would be uplifted.

Mr. Henry A. Forster asks the following questions (see Jour. of the Am. Inst. of Criminal Law and Criminology, Sept., 1915, p. 379):

"Would it be for the public interest to give every person with a fancied grievance, every professional litigant, and every sorehead the legal right to the free prosecution of any and every civil action they might care to bring?"

"Would it be for the public interest to give every person desiring to hinder or delay his creditors the legal right to the free defense of any and every civil action against him?"

According to the above, the questioner assumes the position that the office of a public defender would be the medium through and by which justice would be hindered; in other words, it would be an agency where "every person with a fancied grievance, every professional litigant and every sorehead" would find shelter or refuge. Both of these questions display Mr. Forster laboring under the perverse impression that a public defender will lack the mediocre intelligence, insight, astuteness and sensibility required to ascertain whether the applicant comes within his classes above specified. Such a condition is out of the question.

Now, as to the Legal Aid Society, which is engaged in the protection of the poor, thereby according to the opponents of the new reform, fulfilling the functions of the office of public defender. The question is, whether this society is adequately financed so that it can fulfill

these functions without hindrance. In answer to this, there is no better authority to consult than the last annual report (1914) of that society, where, on page 4, we find the following:

"The condition of the treasury of the society is as yet not satisfactory. Allen Wardwell, Esquire, became treasurer early in 1914, and it is due to his special efforts that the society has not as yet been required to close the doors of more than one or two of its branches. However, it may be necessary to do so at an early date."

The following quotations from the report are of interest:

"An effort was made to induce the Board of Estimate and Apportionment of New York City under the provision of the act of the Legislature of 1907, which provides for an allowance to the society for an amount not exceeding \$25,000.00 per annum, to make a proper allowance to the society in the year 1914, none having been previously requested. But, after considering our appeal, said board declined to aid us."

The report continues:

"Recently a new burden was placed upon Mr. McGee (attorney in chief of the society), he being asked to assist the district attorney in working out the settlement of some 13,000 claims against five furniture lottery establishments.

"It is a pity that when the society is thus induced to give its aid in straightening out the claims of so many thousand people, the Board of Estimate and Apportionment should have refused a corresponding support. One should think that the great city of New York would be unwilling to accept charitable work at our hands without making at least an effort to help cover our expense, especially in a year in which it was most difficult to raise money from private contributors."

Are we not to be looked upon with shame and scorn when the great city of New York refuses to aid in the maintenance of the society which protects our poor with financial contributions from private sources, especially when we read in the report above quoted from, of a donation of \$500.00 from a Dr. Wilhelm Schmidt of Wilhelmshohe, Cassel, Germany! I don't believe it is just for the few persons who voluntarily contribute for the upkeep of that society to shoulder the burden. As has been said before, the equal protection of the law is a public responsibility, and all people as a whole are responsible for the element seeking legal charity. Experience has shown that a public defender serves both the state and the individual, and not the individual only.

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