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## Correspondence

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## CORRESPONDENCE

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[The following letter from Professor Carrara of the University of Turin, Italy, was addressed to Dr. John R. Oliver of Baltimore, Chairman of the Institute Committee on European Criminal law and Procedure.—Ed.]

"In answer to your request of January 19. The prospectus of the Commission on the Reform of Criminal Law, of which Prof. Ferri is president, states that a systematical reform of our legislation must consist in the organization of a social defense against criminality, without philosophic or religious preoccupation, which is not in the competency of the government, and is aimed at this two-fold practical intent:

"1. To make more efficacious the defense against the dangerous delinquents such as abnormal, habitual delinquents.

"2. To use a humane treatment toward the less dangerous delinquents who are the most numerous with the aim of re-educating them by work to a free and honest life. In fact, the plan settles the fundamental principle of 'social responsibility,' namely, that *whoever commits a crime must answer for it whatever be his physical and psychical condition*; whether he be a minor or an adult; *sane or insane*; relapsing or occasional delinquent; drunk or not, etc.

"In one case alone unresponsibility is admitted: if it is a fact apparently criminal, but in reality legitimate, as legitimate defense, or a situation of necessity such as are contemplated in the laws.

"In all other cases he who commits a crime must answer for it, and the problem for the legislator, for the judge and for the executor of the sentence is only to establish what is the form of penalty or defensive remedy most adapted to the personality of the delinquent according to his greater or lesser dangerousness.

"For instance, the minors must never go to prison with adults and must be entrusted to honest families in the lighter cases or be re-educated with work in professional schools or in agricultural colonies, or in the school-ship for those who live near the seaside. The school-ship must be a governmental institution in service for the corrective justice of minor delinquents.

"Whereas, if the crime is committed by a lunatic or a neurasthenic and neuropathic his social responsibility will be regulated by separating him in a criminal lunatic asylum or home if he is more or less dangerous.

"If instead the crime is committed by a born or habitual delin-

quent, he will be separated in an agricultural colony, but particularly in malarial and uncultivated countries, with hygiene and sanitary precautions, so as not to expose them to an indirect and hypocritical form of death penalty.

"In these agricultural colonies the more or less incorrigible delinquents will remain till the judge of execution of the sentences resolves to release them after examination of the reasons advanced by the culprits and by the party wronged and by the public prosecutor. In fact, the plan settles in many cases for the more dangerous delinquents a separation from the community for a relatively or absolutely indefinite period. The present system of condemnation for a fixed term is an absurdity.

"It would be as though the doctor said to the patient who comes to the hospital: 'You will remain here a fortnight—neither more nor less.' What if the patient recovered before? No matter, he must remain a fortnight. And what if in the fifteenth day he is not well? No matter; he must go away, and probably he will return and remain much longer at the hospital with the relapse of a more serious illness.

"The Commission was unanimous in proposing the abolition of the cellular system during the day. During the night the cellular separation of the culprit is necessary for evident reasons. But during the day the penitentiaries and prisons, which were called 'living tombs' with cellular separation, result in the culprit's either becoming an idiot or a wild beast. On the contrary, during the day the prisoner's separation will be replaced by a workshop or an agricultural colony organized with work in the open air, considering that in a sunny country like Italy work in the open air will be the most efficacious and less expensive of all physical and moral disinfectants.

"A characteristic of the plan is in the disposal—new in law but now old as a proposition of the positive criminal school—to compensate the victim of the crime for his losses endured. Those condemned to segregation who are not invalids must work for a salary at an industry near the penitentiary. One-third of the culprit's salary must go to the wronged party or his family; a third to the government for the expense of maintenance and custody, and a third to the culprit or to his family.

"As in a modern industry, a great source of gain is the use of all sorts of by-products or waste, so in social life our plan organizes the use of the social waste—which consists of the delinquent classes of the community."—MARIO CARRARA, Professor in the Institute of Legal Medicine, University of Torino, Italy.