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## A Commentary on the System of Permanently Retaining Criminal Records

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## A COMMENTARY

### Introduction

The author, MILTON S. MARKS, A.B. LL.B., a member of the New York and Federal Bars, has devoted many years to research and speculation on the causes and remedies of social maladjustment. Amongst his numerous publications are: *Criminal Intent and Freedom of Will*; *Should Unanimous Affirmance Be Required to Sustain a Criminal Verdict*; *Reform School Records and Society*.

In this provocative paper, the author challenges the right of the State to retain permanently a criminal record after the ex-convict has apparently been rehabilitated. He sets forth the disastrous effects of this practice on criminal therapeutics, and presents a system whereby records may be concealed from all persons until such time as the ex-convict may again be under suspicion for a crime.—EDITOR.

Asocial conduct is restrained by penal laws and religious and ethical codes of morality. The former are regulations promulgated to protect the State; the latter are ways of life which individuals pursue in their relations with each other. Punishment for transgressions of criminal laws are delegated to the governmental authorities while the imposition of disciplinary measures for disregard of approved moral standards devolve upon public sentiment, which manifests itself through ostracism, reputation and boycott. Whenever the coercive potency of the popular deterrents is insufficient, the polity, if its stability is involved, assumes jurisdiction, brands the offensive activities with criminal stigmata and imposes penal sanctions.

The last few years have been characterized by liberality in principles of tolerance and individualism. Non-conformists are generally no longer considered as *persona non grata*, dissonant doctrines are seldom disparaged and ridiculed and codes of morality are gradually being converted from constraints on behavior to advisory influences. Governments, accordingly, solicitous for their safety have adopted a program of acquiring complete dominion over all behavior which might menace their security and are inevitably becoming the sole medium for punishing perverse conduct.

Since the penal code is essentially a protective measure, the intensity of the punishments set for the various infractions of its provisions are proportionate to their pernicious effects on the integrity of the State. The criminal, accordingly, is regarded as a disgraced person not because his behavior is intrinsically evil, but because the community has been trained to regard it as inimical to the social order and consequently depraved. The merit of the ambitions of the state and the adverse effects of outlawed conduct on it, however, are matters for conjecture. While, therefore, it is true that every violation of established law is culpable *per se* by reason of its an-

archistic character, it does not follow that the stigma which is placed upon it by the authorities is a correct appraisal of its reprehensibility. The true degree of depravity of proscribed conduct must depend upon the propriety of the policies and laws which were disregarded. Edward Everett, the American statesman, excellently shows the manner in which false standards may acquire eminence, in the following statement:

“What subsists today by violence, continues tomorrow by acquiescence and is perpetuated by tradition till at last the hoary abuse shakes the grey hairs of antiquity at us and gives itself out as the wisdom of the ages.”

If the validity of national ideology and established law are constantly open to challenge, should the state punish the law-breaker beyond the point at which its welfare is endangered? Should the rehabilitated ex-convict be forced to endure needlessly the detriments of a prior conviction for a life time?

### *Human Nature, Conscience and Evil*

A school of criminologists have attempted to catalogue actions which are universally denounced by using human nature and conscience as indicators of right and wrong. Accordingly, anti-social behavior was divided into offenses inherently bad, *malum in se* and offenses against regulatory measures, *malum prohibita*; conscience was declared to be a divine voice discerning evil and human nature was claimed to be imbued with an instinctive repugnance of certain opprobrious conduct.

This classification is entirely superficial. All offenses against the state are *malum prohibita*. No conduct outrages human nature unless human nature has been trained to regard it in that light. Emotional antipathies are the products of civilization. If this were not so, would men at one time have eaten human flesh, indulged in public sexual orgies and permitted their dead to be consumed by vultures?

Conscience likewise is nothing more than the moral habits formed in man—his moral background. When this background is disregarded, the feeling of uneasiness which arises is the pangs of conscience. There is a realization that wrong has been done, not because the act committed is necessarily inherently wrong but because it runs contrary to the precepts which have been inculcated into the moral background. Conscience is not a barometer of right and wrong but rather is indicative of the training of an individual and the concepts that he has formed of evil. So it is that many a hardened criminal has felt the oppressions of conscience over a sentimentality which would not even perturb the most God-fearing person.

If conscience is the voice of God, its admonitions truly would never change. The dictates of conscience, however, are constantly in flux. Posterity often brands as barbarous, behavior which previous generations considered normal and regards as commonplace antiquities most heinous sins. Would anyone today advocate the Spartan practice of exposing an infant at birth to the rigors of the elements, the ancient religious rites of offering human sacrifices at the altar of God or the privilege of the feudal lord to pass the first night with the wedded daughter of his serf? These practices which certainly offend the conscience of modern civilization obtained in cultured nations which left to the world many traditions which are still respected. Similarly, although most of the modern nations frown upon adultery, regard the observance of the Lord's day with approval and respect the memory of the dead, it would indeed be termed fanatical to assert that adultery should receive the Babylonian punishment of drowning, that violators of the Sabbath be disgraced by the puritan rack and that a wife be buried alive with her dead spouse, according to the customs of ancient Egypt.

Even today, some nations honor behavior which is regarded as degenerate by their contemporaries. The extermination of non-Aryans by the Nazis and the execution of prisoners of war by the Japanese are revolting to the Democracies. The Axis, however, feel no self-reproach for their atrocities.

Within a nation likewise, the recognized practice of a previous generation may be condemned by their direct descendants. The vast majority of America today feels that slavery is brutal, the spoils system in government is unfair and that sweat shops, child labor and starvation wages are inhuman.

Since, therefore, neither human nature nor conscience are indicators of the inherent virtue of conduct, with what certitude may the various nationalities be assured that their basic doctrines are not misguided and their laws proficient.

### *The Validity of National Ideologies*

The formula for determining the validity of national creeds has not been resolved by modern civilization. Of the many current theories on the purpose of the state, two predominate:

There is the doctrine that there exists a universal state, eternally perfect, whose never changing institutions and regulations must be discovered in the same manner as the scientific laws which direct natural phenomena; that it is the duty of communities to attempt to approximate this ultimate and perfect State, and that the millennium cannot obtain unless the

political principles of every country are identical. James A. Froude, the English historian, describing this view, said:

"History is a voice forever sounding across the centuries, the laws of right and wrong. Opinions alter, manners change, creeds rise and fall but the moral law is written on the tables of eternity."

The difficulty with this concept lies in the complete disagreement amongst its adherents as to the attributes which pertain to the Utopian State. Would it be plausible to expect the attainment of a more harmonious result? Can man, with his finite limitations and partial view of totality evaluate the Archtype State? As Lord Chesterfield remarked, "Every man seeks the truth, but God only knows who found it."

The other view declares that each nation should be consecrated to bringing the fullest happiness to its subjects, that the various nationalities have distinctly different characteristics and desires, that the ambition of statesmen should be to secure a world in which every entity achieves happiness according to its periodic individual predilections and dwells in harmony with its neighbors. Oswald Spengler, in his comprehensive and stimulating volume, "The Decline of the West,"<sup>1</sup> depicts this versatility of cultures. He wrote:

"I see, in place of that empty figment of one linear history . . . the drama of a number of mighty cultures . . . each stamping its material, its mankind, in its own image; each having its own ideas, its own passions, its own life, will and feeling, its own death . . . There is not one sculpture, one painting, one mathematics, one physics, but many, each in its essence different from the others, each limited in duration and self contained, just as each species of plant has its peculiar blossom or fruit, its special type of growth and decline . . ."

This doctrine admits the futility of man's endeavors to establish universal truths from the scintilla of evidence revealed to him, recognizes that conditions are constantly in flux and that patterns of government must conform with the requirements of the age in the best manner that the shortcomings of man will permit and cognizance of the diversity of tastes in the different races concedes that nations with irreconcilable aims may each in their way fulfill their governmental obligations. It still, however, posits upon the rulers the tremendous problem of deciding whether incumbent policies reflect the prevalent desires of the populace; whether gratification of the wishes of the masses will result in ultimate happiness.

The solution of the problems of national ideology is aggravated not only by the narrow confines of human understanding, but also by many other misleading and diverting factors. False factual premises, predal ambitions and ignoble preju-

<sup>1</sup> Oswald Spengler—Decline of the West—p. 21 Special Edition 1939.

dices confound and becloud the reason and the senses and vested interests, reluctant to lose the selfish advantages of the status quo, glorify decadent institutions; and the general public seeking ephemeral rather than ultimate happiness desire policies which would eventually bring chaos and disaster.

Consequently perplexed and confused by the magnitude of the enigma of framing national maxims, the authorities are constantly attempting to modify dissident doctrines; restless and discontent, a resurgent faction in the populace is incessantly clamoring for new leadership.

When change does occur, the radical modification in policy by the administration or the ascendancy to power of a new regime, is not *ipso facto* indicative of advancement. The altered views may very well be a malignant excrescence arising from the internal discord and misunderstanding in the realm; the new order may represent a *coup d'état* by a small minority group who gained control of the military might, economic resources and transportation, press and radio facilities and by brute force, starvation and incarceration, subjugated the majority of the population.

Paradoxical, therefore, as it may seem, national ideology, the fountain of all law and order, has for its dominant characteristic transition and uncertainty.

"In the just and the unjust we find hardly anything which does not change its character in changing its climate. Three degrees of elevation of the pole reverse the whole of jurisprudence! A meridian is decisive of truth, or a few years of possession! Fundamental laws change! Right has its epochs! A pleasant justice that, which a river or a mountain limits! Truth on this side the Pyrenees, error on the other!" (From Pascal.)<sup>2</sup>

### *The Inadequacy of Established Law*

Law and the process used to make and determine it, is likewise characterized by mortal frailties. Not only is modern jurisprudence with its system of statutes and judicial precedents replete with limitations and imperfections but often the law of the land is unrepresentative of its national policies.

The deficiency of legislative law lies in the difficulty of securing an enactment without compromise and in the technique of preventing superannuated measures by the use of general and vague terms rather than appropriate revocational procedures. Although Gladstone said that our constitution was "the most wonderful work ever struck off at a given time by the brain and purpose of man," colonial history shows that it was a compromise between the forces of central and local

<sup>2</sup> Pascal—Pensées Partie 1—Art. VI.

government; although the tempo of our century has been accelerated by scientific progress, there are statutes in force today which represent the horse and buggy era.

The deficiency of the common law arises from the difficulty of settling judicial law, the conflict of stability and motion in established precedents and imperfections in the administration of justice.

The legal tender cases are a classical example of the complications involved in settling law and the lack of permanency after its establishment. These suits ran the gamut of dissenting opinions and reversals, only to be upset within a short time after the law was apparently determined. The litigation involved the constitutionality of a statute permitting the government to issue redeemable paper as legal tender for all debts. In February 1870, the United States Supreme Court declared that the statute was unconstitutional, although it had been in existence since 1862 and had been held constitutional by all the state courts with the exception of one. Fifteen months later the court declared the act constitutional.

While the lack of permanency in tenure of settled law is caused by the need of keeping precedents sufficiently mobile to meet progress, this mutation reduces the common law from an absolute directive to a guide in prophesying what a court will do on a given set of facts. Judge Cardoso, in his learned work, *The Growth of the Law*<sup>3</sup> speaks of the uncertainty of law as follows:

"We shall unite in viewing as law that body of principle and dogma which with a reasonable measure of probability may be the bases for judgment in pending or future controversies. When the prediction reaches a high degree of certainty or assurance we speak of the law as settled though however great the apparent settlement, the possibility of error in prediction is always present."

The onus in predicting the law is also augmented by the diverse temperaments of the various jurists. It is ridiculous to hope that the moment a lawyer drapes the black robe about his person, he becomes possessed of divine lucidity of thought and bereft of all mortal weaknesses. The character of the decisions rendered by judges clearly shows the futility and falsity of such an expectation and how tenaciously judges cling to their early political, social and economic backgrounds. It is preposterous to assume that a man who has represented corporate interests through the major part of his practice can be sympathetic to anti-corporate views despite his sincerity, or that a judge who is continuously nagged by his spouse will be

<sup>3</sup> Cardoso—*The Growth of the Law*—p. 44 1924 Yale University Press.

more liberal to a complaining wife, than one who enjoys domestic tranquility.

Recently, the American Law Institute, made a study of the factors that cause confusion in determining the law. The report listed the following:

1. Lack of agreement on fundamental principles of the common law.
2. Lack of precision in the use of legal terms.
3. Conflicting and badly drawn statutory provision.
4. Attempted distinctions between cases where the facts present no distinction in the legal principles applicable to the great volume of recorded decisions.
5. Ignorance of judges and of laws.
6. The number and nature of novel legal questions.

Jerome Frank, in his philosophical book, *Law and the Modern Mind*,<sup>4</sup> describes the indefiniteness of law in the following paragraph:

"The law always has been, is now and will continue to be, largely vague and variable. And how could this be well otherwise? The law deals with human relations in their most complicated aspects. The whole confused, shifting helter skelter of life parades before it more confused than ever in our kaleidoscopic age."

#### *Deficiencies in Criminal Law Procedure*

Mortal finitude not only inhibits man's efforts to regulate conduct, but also his attempts to determine the factual guilt or innocence of the suspect. While the modern legal forum is vastly superior to the Mediaeval Ordeal and Trial by Combat, the jury system and the code of criminal procedure have deficiencies commensurate with those which pertain to ideologies and substantive law. Convicts are frequently the victims of superannuated and confused trial formalities, error on the part of the veniremen, and indigence of the accused.

Lord Orrery, the English wit, very humorously sets forth the shortcomings of the trial by jury, when he said:

"The point most liable to objection in the jury system is the power which anyone or more of the twelve have to starve the rest into compliance with their opinion so that the verdict may possibly be given by strength of constitution not by conviction of conscience and wretches hang that jurymen may dine."

While the advisability of the preservation of the system which permits a man to be tried by his peers may be problematical, certainly the task of the talesmen should not be complicated by intricate rules of procedure which befog and obscure the points in issue. As far back as 1934, a Tort Com-

<sup>4</sup> Jerome Frank—*Law and the Modern Mind*—5th printing, p. 6.

mission or the Administration of Justice recommended that witnesses be permitted to state their conclusions with regard to ordinary matters subject to explanation in a natural and non technical manner.

Before leaving the procedural aspect of the criminal law, I would like to mention briefly a phase of appellate practice in the criminal law which seems to me highly inconsistent and unjust. As the law is today, a verdict will stand after appeal even though the appellate court does not unanimously find that guilt has been shown beyond a reasonable doubt. By what legal reasoning is a minority opinion disregarded in an appeal court although a unanimous verdict is required of twelve jurymen? Certainly it cannot be denied that a judge of an appellate court is as reasonable as a gentleman of the jury. Surely there is a reasonable doubt if a learned judge of the appellate court so feels. Why then, should not such a dissenting judge be given the same force and effect as a dissenting talesman?

#### *Error in Verdicts*

Regardless of the capabilities of the jury in any conviction, the possibility of error in passing on the facts is always present. Edwin M. Borchard, Professor of law at Yale University, in his enlightening and fascinating book, *Convicting the Innocent*,<sup>5</sup> traces sixty-five cases of wrongful convictions. These cases were taken from amongst many others and used as representatives of the various states and crimes. They are a cross section of American life from every part of the nation.

Professor Borchard attributes error in convicting innocent persons to mistaken identification, perjury and circumstantial evidence from which erroneous inferences are drawn. Speaking on misidentification and perjury, he says:

"Juries seem disposed more readily to credit the veracity and reliability of the victims of an outrage than any amount of contrary evidence by or on behalf of the accused whether by way of alibi, character witnesses, or other testimony. These cases illustrate (referring to his sixty-five cases of innocent conviction) the fact that the emotional balance of the victim or eyewitness is so disturbed by his extraordinary experience that his powers of perception become distorted and his identification is frequently most untrustworthy. Into the identification enter other motives, not necessarily stimulated originally by the accused personally—the desire to requite a crime, to exact vengeance upon the person believed guilty, to find a scapegoat, to support consciously or unconsciously, an identification already made by another. Thus doubts are resolved against the accused."

The criticism of Professor Borchard of circumstantial evidence is well taken. In the trial of an action there are three

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<sup>5</sup> Borchard—*Convicting the Innocent*—Garden City Pub. Co., p. 367.

types of evidence that may be presented to the Court. There is the real evidence which consists in the actual presentation of the physical object in question, direct or positive evidence which is testimony on facts in issue derived from the senses and circumstantial evidence which pertains to collateral facts from which the existence or non-existence of the facts in issue may be inferred. The basis of circumstantial evidence is human experience which has shown that certain facts are so closely related that proof of one may give rise to the inference of the existence or non-existence of the other. The chance that the inference may be wrong is always present and therein lies the great weakness in this type of proof.

### *Indigence and the Suspect*

As a result of the recent investigation of the Magistrate Courts in the City of New York, and the bail bond racket, the plight of the indigent suspect has received the attention of the Bench and Bar. Investigation has revealed that many impoverished defendants are convicted by carelessly prepared defenses and lack of legal advice prior to trial.

Justice Justin Miller of the Supreme Court of the District of Columbia, gives an excellent picture of the preliminary difficulties of the poor man accused of crime:

“. . . Those who think of the accused as one at an unfair disadvantage with all the powers of the state arrayed against him . . . if they think intelligently and not merely as emotional romanticists . . . think of that half-concealed, unsupervised procedure which precedes the appearance of the accused in the court of record. Here it is that we find the third degree, the bail bond broker, the stool pigeon, the crooked interpreter, the shyster lawyer, the lame duck magistrate and all the rest of the motley underworld characters and methods. The poor man . . . often is the victim of a grotesque burlesque on the administration of justice.”

Although it is true that the Court offers counsel to the indigent suspect, and in murder cases, New York City allots to assigned counsel the sum of \$1,000.00, the efficacy of this practice has been challenged. The Committee on the public defenders of the New York Bar Association, made a study of the adequacy of assigned counsel and reported as follows:

“In the opinion of your committee the present system of assigned counsel to represent accused persons is a total failure; it is not fair to the accused person, it creates a public disrespect for the administration of the criminal law, it does not promote justice, and it places an innocent prisoner at a distinct disadvantage in obtaining that fair trial which is guaranteed to all by our laws.”

While, therefore, most codes of criminal procedure seek to help the accused by the use of such devices as preliminary hear-

ings, indictments, proof beyond a reasonable doubt, the salutary effects of these judicial practices may be invalidated by the jury system, complicated rules of evidence, error in judgment and indigence of the accused; while, therefore, a conviction is regarded as synonymous with guilt, it must always be borne in mind that the adverse verdict may have been the result of factors other than factual guilt—factors for which society is to blame.

### *Modern Attitude Toward Crime*

In view of the uncertainty that surrounds the characterization of human behavior and the determination of the guilt of suspects, the state has no right to punish the person who breaks its laws, beyond the point which menaces its security. After a criminal has served his sentence may not a period of time arrive when he may cease to endanger the community? If the criminal can be reformed, and the public can reasonably be assured that he will not revert to crime, is it not the duty of the state to absorb the ex-convict into society?

Until Dr. Goring in 1913, published his book, *The English Convict*, the criminal was regarded as a born type characterized by physical stigmata. Dr. Goring, however, by examining over three thousand consecutive entrants to English convict prisons for a period of eight years, exploded the criminal type hypothesis of Cesare Lombroso, and proved that there was no physical difference between the average man and the inmates which had come under his surveillance. Since Dr. Goring's physical observations, criminals have been subjected to psychological examinations and the results obtained do not show a marked mental inferiority.

Investigation and research have shown that asocial attitudes and conduct are caused by vicious conditions in society which deprive certain unfortunate individuals of the training essential to lead normal lives and that the public offender can be rehabilitated under proper therapeutic measures. Although the validity of national policies and laws is conjecturable, most criminals are not iconoclasts. They break laws because they are not fitted to live under their provisions. When difficulties arise the average person uses his education to overcome them; the criminal under similar circumstances uses the only methods at his disposal—force and disregard of the rights of others.

Professor Fred E. Haynes describes the connection between training and crime in his book, *Criminology*:<sup>6</sup>

<sup>6</sup> Haynes *Criminology*—p. 33 1st. Ed.

"Crime is a form of social maladjustment and is largely a phenomenon which civilization has produced. There is little crime amongst savages because life is so simple that much intelligence and training of the individual is unnecessary to provide that he shall form habits in harmony with those of his group. It is a question if any of us would be honest and moral if we were not taught to be so by society. The child learns to restrain many instinctive tendencies, which might lead to crime during his years of preparation for life at home and in school . . . Normal persons without mental defects may fail to build up the habits necessary to adjust to complex social life because of low vicious surroundings. Everyone has the potentialities of crime in his makeup."

Professor Sutherland,<sup>7</sup> speaking on the relationship between pauperous surroundings, inimical attitudes towards society and its institutions, stated:

"Poverty . . . generally means segregation in low-rent sections, where people are isolated from any of the cultural influences and forced into contact with many of the degrading influences. Poverty generally means a low status with little to lose, little to respect, little to be proud of, little to sustain efforts to improve. It generally means bad housing conditions, lack of sanitation . . . and lack of attractive community institutions. It generally means both parents away from home for long hours, with the fatigue, lack of control of children, and irritation which goes with these. It generally means withdrawal of the child from school at an early age and the beginning of mechanical labor, with weakening of the home control, the development of anti-social grudges, and lack of cultural contacts. Poverty, together with the display of wealth in shop windows, streets and picture shows, generally means envy and hatred of the rich and the feeling of missing much in life, because of the lack of satisfaction of the fundamental wishes. Poverty seldom forces people to steal or become prostitutes in order to escape starvation. It produces its effect most frequently on the attitudes rather than on the organism."

#### *The Ex-Convict and the Record*

Influenced by the theory that crime is fomented by pernicious social conditions, the prevalent technique of treating wayward persons definitely stresses rehabilitation and assumes three different aspects. There is the sociological approach which attacks conditions in society which breed crime; the penological phase which attempts to reform the prisoner in the institution and the assimilation stage which concerns itself with placing the discharged convict back into society.

Although within the past few years great strides have been made in eradicating crime at its sources and in equipping inmates of prisons with proper social perspectives and useful trades, much remains to be done in removing the obstacles which prevent the absorption of the ex-convict into society.

<sup>7</sup> Sutherland—Criminology—J. B. Lippincott Co., 1924, pp. 164-70.

In New York State two outstanding steps have been taken towards improving the assimilation process. The governor has been invested with the power to restore civil rights with an executive pardon and the legislature has enacted the Youthful Offenders act, which classifies the criminal records of the adjudicated youthful offender as confidential matter subject to inspection only in the discretion of the court. While these two measures are undoubtedly strong influences in the rehabilitation process, they lose a great deal of their therapeutic effect by not completely making the criminal record unavailable even to the authorities, unless the ex-convict or youthful offender is suspected of another crime. Further, why confine the removal of criminal records to the youthful offender? A system of recording criminal convictions which does not offer a means of eradicating their deleterious effects under proper circumstances is archaic, inhuman and inimical to society.

The psychological effects of a record both on the possessor and the outside world is tremendous. Just as a clean record is a potent inducement to retain its perfection, a blemished record leads to moral indifference. The person with a bad record fears no further stains on what he feels is already spoiled. The blot of a criminal record likewise often leads to frustration. There is a fear to rise to a class in the social order which will regard the recipient of a prison record as a social outcast. As for the world at large, regardless of benign sermons on how to sympathize with the fallen brother, it is an undisputed fact that a conviction is a great obstacle to social and economical advancement.

J. P. Alexander, in his article, "The Philosophy of Punishment," showed the impediments of a conviction by quoting a criminal of international reputation who spent twenty-five years in jails and prisons; the quotation states:

"Everywhere I am catalogued as a social outcast, and am lawful prey for any officer of the law. All my relations with society impress me with the fact that I am outside the pale of decency. The language, manners and acts of those who deal with me are voiced in a single monotonous accusation: 'You are a bad man and we hate you.' I am slapped on the face by society. I am not human if I fail to hit back."

#### *Suggested Legislation*

Why should not legislation be enacted which will expunge criminal records from the docket books and impound the files in a central bureau, if in the opinion of a court, the ex-convict has led an exemplary life for a determined number of years after termination of parole or discharge from prison? To in-

sure absolute protection to the convict against having his record reopened if he remained free of suspicion of another offense, the files should be placed in a sealed envelope with nothing on the surface but fingerprints, subject to inspection by law enforcement agencies only when the fingerprints of a suspect are identified with those on a file. To protect the state, identification of a fingerprint of a suspect with those on a file will reinvest the file with the same force and effect as though never impounded. Certainly, if an offender has lived in society for a considerable number of years and has not returned to crime, the likelihood that he will continue to be a law-abiding citizen is great enough to chance the obliteration of his unfortunate past. Would not years of excellent conduct make good behavior habitual? Why should such persons be constantly embarrassed and hampered for a wrong mental outlook which they once had but no longer possess?

When a criminal has reformed, why should he not be regarded as guiltless as a man who vindicates himself at the bar of justice? Is not the reformed offender an entirely different person from one who committed the wrong against society? The penal law has a Statute of Limitations for the prosecution of crimes, yet it places no curb on the continuance of a criminal record.

Many dramas have been written on the mental tortures endured by children who found that they have been educated and placed in the elite strata of society with money immorally or illegally earned by their parents. The state, when it sends the reformed convict back to society without ever removing the stigma, perpetrates an act equally cruel. The desirability of being a respectable member of the community has been taught but the convict knows that he must forever be a pariah.

How different it must be to know that after a period of good conduct the unsavory past will be forever effaced; that it can never return to harass and condemn; that upon leaving prison there will be presented a chance of redemption!

The proposed legislation will not only remove an impediment towards rehabilitation but will act as a cogent inducement to achieve the good reputation requisite for cancellation of the criminal record.