

enlightened men hold to it. It is an illustration of the truth demonstrated by experience, that—

"Full often bends.  
Current opinion in the false direction,  
And then the feelings bind the intellect."

Beccaria long ago taught that the criminal law ought to look to the prevention of crime rather than to its punishment; and prevention means more than making the severity of the law's sanctions a deterrent from crime. It means that an incipient bias to wrongdoing should not, by committal of juveniles to places of promiscuous imprisonment, be hopelessly solidified into the criminaloid mental state. It also means that every accused person shall have the benefit of intelligent discernment between his liability to punishment for a conscious infraction of the law, and his need of proper treatment for mental disease demonstrated by his method of committing the crime, and his abnormal motive, or lack of motive, therefor. It means, in short, a considerable departure from the methods which Herbert Spencer stigmatizes as not only failing to reclaim the malefactor, but which, in many instances, have increased criminality. We seem to have forgotten that education plays a large part in the reformation of the criminal.

\* \* \* But the superficial reformer points to the excellences of our criminal code as compared with the state of the law at the beginning of the century, and airily bids us to fret not at the Law's unavoidable delay, but be thankful for our present great advancement in dealing with the repression of crime. Undoubtedly we have progressed, but that is no reason why we should rest on our oars when so much remains to be done.

\* \* \* Besides this general arraignment of the philosophy of our criminal law, we might present some specific instances wherein we conceive the system to be defective, did space permit. We must content ourselves with the mention of one only at this time. The test of criminal responsibility which our courts are bound to apply is that formulated by the judges in *McNaghten's Case*, 10 Cl. & F. 200, which may be stated thus: the ability of the accused to distinguish right from wrong at the time of the offence. The judges practically say that it being once established that the prisoner's mental disease did not prevent him from knowing that what he was doing was wrong, then all evidence of insanity tending