

Connecticut:

WALTER PITKIN, Esq.—A proper answer to this question would require a more elaborate examination of our entire system (and indeed of the systems in the other states, by way of comparison), than I have been able to give it.

New Jersey:

C. PARKER, Esq.—This last question I hardly venture to answer. Undoubtedly there are defects in the criminal law of New Jersey. No law can be perfect. The merit of our state is, that her legislators have revered the common law, and been very careful to avoid making many changes of its provisions. One great excellence of the common law is its expansive power. No changes in society can affect its force. It strives to punish all moral crime which is injurious to the community. New Jersey, guided here by the calm and judicious mind of Judge Puterson, one of the most profound jurists and excellent men the country has produced, first re-enacted the criminal code of England, as found on her statute book, and then provided that all offences against the common law should be properly punished.

The defects of the system of New Jersey are, therefore, for the most part, those of the common law; and one is the system of pleading. It is altogether too precise and rigorous. Ancient law was too severe. The penalty for almost everything was *death*. Hence judges set themselves to work to find ways of escape for the poor creatures accused of minor crimes. The result was the escape of many flagrant offenders, through the rigor of the rules adopted by ancient judges. Were I a legislator, I would enact here the code for pleading, established a few years ago in England, remarkable, above all others, for its simplicity and comprehensiveness; and I would, besides, authorize any amendment at or before trial, which appeared necessary and fair.

Another serious defect is the absence of any officer whose duty it is to see to the prevention and detection of crime. We have no district attorneys; we have only prosecutors of the pleas—that is, officers whose duty it is to *prosecute* what grand juries indict, not to see to it that all offences are indicted. Keeping the mode of emolument as it is, dependent on success, and giving prosecutors the task of prevention and detection, it is easy to see how diligent they might be found. Crime mostly springs from intemperance. As the law now stands, the prosecutor who aims at checking this, by indicting rum sellers, is a simple volunteer—his motive gain. Make it his duty and retain the motive, and he would be likely, generally, to show much, though it is hoped not too much, diligence.

Another serious defect is the mode of selecting grand and petit juries. The sheriff selects grand juries. He is elected by the people. They then, mediately, select the grand jury. If they choose